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Register

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VOLUME 2, NUMBER 25

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State Register

Notice of *State Register* Format Changes

Beginning with *State Register* Vol. 2, issue No. 26, dated January 2, 1978, the Office of the State Register will be making the following enhancements in the *State Register* format:

- Highlights on the front cover will be arranged under section headings, as they appear within the *State Register*, and will include page numbers. The Highlights section will also include a notation directing readers to a more complete table of contents within the issue.
- An introductory statement will be included for each section of the *State Register*. These statements will give a brief explanation of the kinds of material contained in the section; effective lead times for notices of hearing, rules, or executive orders; and cites to applicable statutes.
- A new key using ~~strike outs~~ to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules will indicate changes from original language to proposed new language. Strike outs and underlining in adopted rules will indicate changes from proposed to adopted language.
- Guide rule-numbers will be printed, when applicable, at the outside top of each page to indicate the beginning rule number on the left hand pages and the ending rule number on the right hand pages.
- Chapter and rule numbers that begin the text of an adopted or proposed rule will be printed in bold face.

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Department of Education Division of Instruction

Temporary Rule Governing Pre-School Health and Developmental Screening Continued in Effect

The State Board of Education at its December 12 meeting, extended the temporary rule governing Pre-School Health and Developmental Screening another 90 days. This rule appeared in the *State Register*, August 15, Vol. 2, Number 6, pp. 251-254 and October 11, Vol. 2, Number 14, p. 753, with an amendment.

Howard B. Casmey
Commissioner, Department of Education

Department of Personnel Adopted Rules Regarding Employee Training, Reallocation, Pay, Reemployment, and Probationary Period

The rules published at *State Register* Vol. 2, No. 6, p. 254, August 15, 1977 (2 S.R. 254) are adopted and are identical in every respect to their proposed form, with the following amendments:

Persl 19 Reallocation of positions. If, because of [the] changes occurring over a period of time in the kind, responsibility or difficulty of work performed in [the] organizational structure of an agency, changes in the duties of the position, or for some other reason] a classified or unclassified position, it seems to be improperly allocated, or compared, the Commissioner shall, independently or upon request of an appointing authority or permanent employee, investigate the duties of the affected position. Following the investigation, the Commissioner may reallocate, change the allocation of, or recompare the position to an appropriate class. In making a request for a review of a position, the appointing authority or permanent employee shall set forth specifically the changes that have occurred in the particular position which warrant the requested action **along with other documentation prescribed by the Commissioner.** If the Commissioner determines that a request for the reallocation of a position is not properly documented, the request shall be returned to the sender within ten days of receipt of the request, and the employee shall be immediately notified of such action. The Commissioner

shall notify the affected employee and the appointing authority of the final classification decision.

Persl 29 Administration of the wage and salary plan. Persl Rule 29, except for subdivisions F. [(f)] and G. [(g)], also applies to those unclassified positions which have been directly compared to [a class in] the classified service. The following provisions assume that funds are available and expenditures have been authorized by the Commissioner of Finance.

A. [(a)] Beginning Salary. The minimum rate of pay shall normally be paid upon appointment to a class. In schedules A and C, the appointing authority may, however, make an original appointment within the salary range but not to exceed the third salary step.

All original appointments beyond the minimum rate for a class shall be documented in the form prescribed by the Commissioner and shall be based upon the exceptional qualifications of the candidate or the unavailability of candidates at the minimum rate, and consideration shall be given to the salaries of current employees in the same or related classifications.

In the Special Teachers salary schedule, appointments may be made up to and including the sixth step under conditions outlined in the compensation provisions relating to that schedule.

Persl 31 Retroactive pay upon reallocation. Except for reallocations resulting from a position classification study of an agency or subdivision thereof initiated by the Department of Personnel or an appointing authority, if the incumbent of a position which is reallocated upward to a class existing at the time of the request receives a probationary appointment to the reallocated position, pay for the reallocated position shall commence [up to] sixty calendar days prior to the incumbent employee's probationary appointment to that position, but in [In] no event shall such retroactive pay commence earlier than fifteen calendar days after the receipt in the Department of Personnel of a reallocation request determined by the Department of Personnel to be properly documented.

Persl 39 Eligibility to compete.

Persl 39 B. [(b)] Promotional selection processes. Promotional selection processes shall be open to all permanent or probationary employees in the agency or other organization unit for which the selection process is being held who meet the requirements described in the announcements. All unclassified employees appointed for a period in excess of six months, and permanent or probationary employees in the classified service [[classified employees employed on an unlimited basis and all unclassified state

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employees]] in any branch of state government who meet the established requirements may apply for promotional selection processes for positions designated as managerial or professional. **Emergency, temporary and provisional employees in the classified service; unclassified employees appointed for a period of less than six months; pre-service trainees and interns are not eligible to compete in promotional selection processes for positions designated as professional or managerial.**

Persl 61 Reemployment list. The reemployment list shall contain the names of all permanent or probationary employees laid off in the class of employment, and the names of former permanent or probationary employees in the class whose written applications made within three years of separation in good standing are approved by the Commissioner. The Commissioner shall consider the recommendation of the last appointing authority before approving applications of former employees and shall approve or disapprove each application considering the quality of service as evidenced by service reports submitted by the last appointing authority. Names shall be placed on the reemployment list based on the quality of service as indicated in the individual's performance appraisals. A person may remain on a reemployment list for up to three years and must return to state service within four years of separation.

[[At the request of the employee]] The name of a laid-off employee shall be placed on the reemployment list for all classes in which the employee possessed permanent or probationary status prior to layoff and for locations and employment conditions for which the employee is eligible and has expressed a willingness to accept employment. [[Laid-off employees who wish to have their names placed on a reemployment list or lists must notify the Department of Personnel within 3 years of the date of layoff indicating those classes, locations and employment conditions they are willing to consider.]] Initial notice of which classes, locations and employment conditions the employee is willing to consider shall be made to the Department of Personnel by the appointing authority at the point notification of layoff is given to the Department. Subsequent changes in availability for classes, locations, or employment conditions shall be made any time within three years of the date of layoff by the laid-off employee.

Persl 65 Removal of names from eligible lists.

C. [(c)] Failure to respond within [ten] **seven days from the date of mailing** to a written inquiry of the Commissioner relative to availability for appointment or failure to re-

pond within [ten] **seven days from the date of mailing** to a written inquiry of an appointing authority sent by certified mail relative to availability for employment.

Persl 68 Cooperative use of eligible lists by governmental merit system jurisdictions. Upon the request of an appointing authority, and after due consideration of the needs and interests of the state service, the Commissioner, in the absence of an appropriate state eligible list or when there are not sufficient names on the state eligible list to make a complete certification, may authorize the use of an eligible list established by another governmental merit system jurisdiction employing U.S. Civil Service Commission-approved standards to make an appointment to a classified position in the state service, providing the job classification for which the eligible list was established in the cooperating jurisdiction is determined to be similar in job duties to the position for which it is to be used in the state service and that the selection process measures knowledges, skills and abilities essential for satisfactory performance in the position in the state service for which the list will be used. Any eligible list adopted under this rule shall be considered to constitute an open competitive list and the ranking and referral of candidates' names shall be in accord with the provisions of Personnel Rules 82 and 84.

Persl 97 Duration of probationary period. All original and promotional appointments shall be tentative subject to the probationary period as determined by the Commissioner of Personnel.

A. [(a)] Half to full-time employees in salary schedule A shall serve a probationary period of six calendar months. Less than half-time employees shall serve a probationary period of nine calendar months.

B. [(b)] Half to full-time employees in salary schedule B shall serve a probationary period of two calendar months. Less than half-time employees shall serve a probationary period of three calendar months.

C. [(c)] Half to full-time employees in salary schedule C shall serve a probationary period of four calendar months. Less than half-time employees shall serve a probationary period of six calendar months.

D. [(d)] Teachers, institutional education administrators, and educational supervisors shall serve a probationary period of one year.

E. [(e)] Employees in the management compensation

KEY: Existing rules are printed in standard type face. Proposed additions to existing rules are printed in **boldface**, while proposed deletions from existing rules are printed within [single brackets]. Additions to proposed rules are **underlined and boldfaced**, while deletions from proposed rules are printed within [[double brackets]].

RULES

schedule shall normally serve a probationary period of twelve months. An appointing authority may reduce the length of an individual period to not less than nine months, provided the employee has demonstrated the ability to effectively perform the duties and responsibilities of the position and the training requirements of Rule 166 have been met. With the approval of the Commissioner of Personnel, the probationary period may be extended to provide sufficient time for individual managers to complete mandatory minimum training requirements provided the total probationary period does not exceed two years.

[The total unpaid] **Unpaid [leave] leave, to the extent that it exceeds** ten or more work days, shall be added to the length of the probationary period.

The probationary period shall include all regular service, excluding time served in emergency, provisional, or temporary employment.

An employee who is promoted prior to the completion of the probationary period to a higher position in the same occupational field and in the same department shall complete the probationary period in the lower position by service in the higher position. The appointing authority shall certify that employee for permanent status in the lower position at the end of the specified probationary period for such class, or its equivalent period following the employee's original appointment to the position. In the absence of certification, the employee shall be deemed to possess permanent status.

When a probationary employee is granted a leave of absence to accept a position in the unclassified service, the unfulfilled portion of the probationary period in the classified service may be completed by service in the unclassified service position, subject to a positive recommendation of the appointing authority and approval of the Commissioner, provided that the work in the unclassified position is within the same department and general occupational field and is at least equivalent in difficulty and responsibility to the work in the position in the classified service.

All employees appointed from eligible lists other than the layoff list shall be subject to a probationary period beginning the date of the new appointment.

Employees transferred from the jurisdiction of one appointing authority to that of another appointing authority may be subject to a probationary period as provided by this section of the rules.

For the purposes of this rule, classes shall be considered to be in the same occupational field when the appointing authority determines, after an analysis of the positions involved, that it is possible to evaluate the probability of satisfactory service in one class by observing service in the other class.

Persl 141 [Maternity] **Child bearing/child rearing** Leave of Absence Without Pay. [Maternity] **A child bearing/child rearing** leave of absence shall be granted, when requested [[incidental to the birth or adoption of a child]], to a **permanent, probationary, or unclassified** [pregnant employee] **natural parent** or adoptive [mother] **parent** [in the classified or unclassified service] for a period not to exceed 6 months. [Maternity] **Child bearing/child rearing** leave may be extended up to a total maximum of one year by mutual consent between the employee and the appointing authority.

Persl 160 The development policy. The Commissioner shall set policy, administer and conduct programs of training [and counseling] for the effective development and utilization of classified and unclassified employees, to promote individual, group and departmental efficiency and effectiveness. **Training and development is a management tool and as such is utilized at the discretion of the department head. Nothing in these rules should be construed to mean that specific application of this process is a right of the employee. While the primary emphasis of training and development is to improve the state service, it should not be seen as incompatible or inconsistent with the growth of individual employees. The state, through each operating agency has an obligation to provide assistance to employees in reaching specific career goals. The form and level of this assistance is determined by the department head after taking into consideration the affirmative action goals of the state.**

A. Development defined. Employee development is an on-going process intended to help employees attain and maintain a quality of job performance that meets the needs of the state and the [[needs]] **career objectives of individual employees. Development includes a variety of planned, purposeful activities and experiences designed to improve and/or increase the skills, knowledge and abilities of employees. Typical activities and experiences include project assignments, task force assignments, supervisory coaching, internal job assistance, orientation, job rotation, interchanges, classroom instruction and independent study.**

B. Training defined. Training is a specific means or method of employee development. It consists of formal, systematic and structured activities that meet specific, predetermined learning objectives designed to directly improve and/or increase the knowledge, skills and abilities of employees. Formal training usually refers to group instruction or structured independent study. Academic or technical courses, seminars, workshops, institutes, correspondence courses, individualized reading programs, programmed instruction and computer assisted learning are typical examples of formal training. Conferences, conventions, informational

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meetings, site visitations are usually not included in formal training, unless they are conducted specifically for educational purposes.

C. Individual Development Planning. Each employee shall be counseled in terms of development and complete an Individual Development Planning Worksheet on an annual basis. First priority for expenditure of state funds will be given to those activities included in the Individual Development Plan.

D. Participation in training. Employees may be selected to participate in training and development activities in two ways:

1. Job assignment. The employee is assigned by the department to participate as a specific work assignment, or as specifically requested by the supervisor. The employee must participate in order to carry out the basic responsibilities of the job.

2. Employee initiated. At the discretion of the department head, employees may be allowed to participate in non-assigned programs to meet specific training and development needs. Participation in these programs must be beneficial to both the organization and the employee.

Persl 167 Career training programs. Within available resources, and with prior approval of the Commissioner, each department head shall identify and provide special career training programs for state employees. Special career training programs are those designed to assist employees in meeting their career objectives, and the state in meeting its affirmative action goals. Department heads shall consider projected employment patterns in the development of these programs. Department involvement in these programs [[is limited to areas]] shall be related to the activities of [[the various]] all state agencies. Programs established under this rule may provide for training and development beyond the standards established in Persl 161.

Persl 168 Reimbursement of training expenses to the state. Employees who participate in training programs **or courses longer than 40 classroom hours on state time or in training programs which are funded in whole or in part by state funds are obligated to return to a state job for a minimum period of twice the length of the training program.** Department heads may establish greater time commitments for special programs. Employees who fail to fulfill the minimum time commitments are required to reimburse the state for the actual costs of the

training plus all salary paid for actual time spent in training activities. The amount of reimbursement required will be a prorated share of the actual expenses based upon the length of time the employee has returned to a state job.

The state may require the reimbursement of tuition, registration, travel and living costs paid by the state for any course or program not successfully completed, provided the state is not responsible for the failure to successfully complete the course.

Upon request of an employee or department head, the Commissioner may waive the reimbursement requirements of this section for employees who are unable to maintain a level of employment at least equivalent to that held immediately prior to training, due to layoff, illness or a disability of at least six months duration or death.

Persl 224 "Occupational category" means one of the groups of classes established under Persl 172, and defined in Personnel Rules 208, 222, 225, 237, 243, 246, and 247.

Department of Public Welfare Bureau of Income Maintenance

Adopted Temporary Rule Governing Operation of the Catastrophic Health Expense Protection Program (CHEPP)

The proposed temporary rule (DPW 60) published at *State Register*, Vol. 1, No. 52, p. 1865, July 5, 1977, was adopted on November 9, 1977, and is identical in every respect to its proposed form, with the following amendments:

A.3. Uniform Implementation of the Rule. The Commissioner of Public Welfare shall issue handbooks and informational materials to local welfare agencies, to persons and organizations that contract to perform functions re-

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quired under the CHEPP act, to providers of health services which may be paid for under the act, and to people who apply for or receive benefits under the act, so that the act and this rule are put into effect in an orderly and uniform way. [[The Commissioner may prescribe forms to be used in the CHEP Program.]]

B.1.b. Where clearly indicated by the context, "eligible person" shall also mean the dependents of an eligible person as defined below [[after]].

B.2. "Resident of Minnesota" means a person who is presently residing in Minnesota, having there his principal and permanent abode, and having no intent to return to some other state to live upon completion of a course of medical care. In deciding whether an applicant for CHEPP benefits is a resident of Minnesota, all important aspects of the applicant's situation shall be considered, and the decision shall be made on the preponderance of the evidence. In doubtful cases, the following forms of evidence of residence may be included in those examined:

a. The place of residence of the applicant's family members who would be eligible for CHEPP benefits;

b. The number of months that the applicant has lived in Minnesota, and, in the case of retired persons who maintain residences in two or more states, the proportion of each of the past two years which the applicant has spent in Minnesota;

c. The state in which the applicant and his spouse are:

(1) Registered to vote;

(2) Licensed to drive;

(3) Registering their car(s);

(4) Claiming a homestead for property tax relief;

(5) Employed;

(6) Doing their banking;

d. The state in which the applicant lived for a substantial period before retiring and establishing residences in two or more states.

B.3.d. Services of a skilled nursing facility which meets the requirements for participation as such in the Medicare program or the Medical Assistance program, for not more than 120 days in an individual [[the]] eligible per-

son's year-long eligibility period, if the services would qualify as reimbursable services under Medicare, and if the services do not fall into the class of "qualified nursing home expenses" defined in paragraph B. 31 below, and if, in addition, the patient's attending physician certifies in writing that the services are not primarily of a custodial or residential nature;

B.3.i. Prostheses other than dental, but including cataract lenses;

B.4. "Dependent" means a spouse, unmarried child under the age of 19 years, a child who is a student under the age of 25 and financially dependent upon the parent, or a child of any age who is disabled and dependent upon the parent, provided such spouse or child is not currently eligible for benefits under the Medical Assistance program or the General Assistance Medical Care program. The term "child" as used here includes legally adopted children, and it also includes financially dependent step children, foster children, and children under the guardianship of the applicant of his spouse. Eligibility for benefits of children reaching age 19 or 25 shall end on the last day of the birthdate month, in the eligibility year.

B.5. "Household income" means the gross income of an eligible person and all his dependents 23 years of age or older for the calendar year preceding the year in which an application is filed for CHEPP benefits. A dependent's age, for the purposes of this paragraph, shall be his age on the last day of the calendar year preceding the year in which application is filed for CHEPP benefits. Income paid to the applicant or his spouse on behalf of children included in the application shall be considered the applicant's income rather than the children's unless an accounting must be made for its use to some person outside the applicant family; this interpretation of children's income applies in particular to Social Security survivors' benefits. Child support legally required to be paid to a custodial parent by an absent parent shall be considered income of the custodial parent if and only if the custodial parent is not entitled to claim the child(ren) as tax dependents. Explanatory comment: this treatment of child support payments is based on the Minnesota Department of Revenue's interpretation of Minnesota Statutes, Section 290A.03, subdivision 3. See paragraph #6. immediately below.

B.6. "Gross income" means income as defined in Minnesota Statutes, Section 290A.03, subdivision 3. Cash benefits paid to eligible persons in lieu of payments to providers of health services shall not be included in "gross income" as defined here, but payments made by the United States Veterans' Administration for "Aid and Attendance" shall be considered to be a part of "gross income" rather than medical benefits.

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B.13. "Hospital services" means any and all reasonable and medically appropriate services provided on an inpatient or outpatient basis on the direction of a physician or under his supervision by a hospital which meets the requirements for reimbursement as such by the Medical Assistance program [[Program]]. [[Title XIX of the Federal Social Security Act. Hospital Services do **not** include ambulance or medical transportation services, outpatient mental or dental health services, drugs dispensed on an outpatient basis for consumption at some other location, home health services, outpatient oral surgery, prostheses, or durable medical equipment.]] **Hospital services do not include outpatient mental or dental health services, drugs dispensed on an outpatient basis for consumption at some other location, home health services, outpatient oral surgery, prostheses for outpatient use, or durable medical equipment for use outside the hospital, to the extent that such services are not covered under the other provisions of the CHEP Program. Ambulance services and other medical transportation are not hospital services, per se, unless they lead to an inpatient hospital admission and are chargeable as hospital services under the rules and procedures of the Minnesota Medical Assistance program.**

B.14. [["Physician" means a medical doctor, osteopath, or dentist, licensed in the state in which he practices, acting within the scope of his license. The term does not include podiatrists, chiropractors, optometrists, or psychologists.]] **"Physician" means a medical doctor or osteopath, or a dentist acting within the scope of CHEPP coverage of dental services, licensed in the state in which he practices and acting within the scope of his license. The term does not include podiatrists, chiropractors, optometrists, or psychologists.**

B.30. "Out-of-pocket" means the personal liability of an applicant, eligible person, or a dependent of one of these. A charge or expense for a service covered by CHEPP must be an out-of-pocket expense for the applicant or eligible family. **Except as provided below**, this means that no third party is legally liable to pay it and no third party has been liable to pay it and has then paid it to or on behalf of the family. If part of an expense for a covered service is paid by a liable third party or is the liability of a third party, that part is not a qualified expense **under the CHEP Program** and may not be used to satisfy the CHEPP deductible and may not be reimbursed by CHEPP. **However, expenses for covered services actually paid by liable health insurance companies may be considered eligible out-of-pocket expenses for the purpose of satisfying the CHEPP deductible to the extent that the applicant or one of his**

dependents actually paid or contributed toward the insurance premiums, the contributions were made during the deductible period, and the services for which the insurance payments were made were received during the deductible period.

B.31. [["Qualified nursing home expense" means any charge incurred subsequent to July 1, 1977, for nursing home services after 36 months of continuous care provided to a person 64 years of age or younger in a licensed nursing home. Periods of inpatient hospital care occurring after admission to a nursing home shall count as part of the 36 months of continuous care.]]

"Qualified nursing home expense" means any per diem charge (as "per diem charge" is defined by the Minnesota Medical Assistance program) incurred subsequent to July 1, 1977, for nursing home services after 36 months of continuous care provided to a person less than 65 years of age in a licensed nursing home bed certified at the skilled nursing facility (SNF) or intermediate care facility "1" (ICF-1) level. Periods of inpatient hospital care and short periods of therapeutic leave from nursing home care which occur after the initial admission to nursing home care shall count as part of the 36 months.

B.34. **"Catastrophic Health Expense Protection Program coverage 1 (CHEPP-1)" means the set of CHEPP benefits available to persons who have become eligible under the provisions of paragraph B.1.a. above. This coverage is the regular and broad coverage of the CHEP Program. It makes no restrictions on benefits on account of age, except as regards defining who may be included in a single family group.**

B.35. **"Catastrophic Health Expense Protection Program coverage 2 (CHEPP-2)" means the coverage of some part of the routine per diem costs of nursing home care for persons less than 65 years of age who have been in a nursing home for at least 36 months and who have become eligible under the provisions of paragraph B.1.b. above.**

C.2. [[Who May Apply. Applications for CHEPP benefits may be made by a single adult person, by either spouse of a family, or by an individual's attorney or court-appointed guardian or conservator. An applicant must be presently a resident of Minnesota.]]

Who May Apply. Applications for CHEPP benefits may be made by a single adult person, by either spouse

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of a family, or by an individual's attorney, guardian, or personally designated representative, or by the administrator or court-appointed representative of a deceased individual's estate. A personally designated representative shall present written proof of his designation and shall not be an employee of or a contractor with any provider of medical services which has provided services to the applicant. No application may be made on behalf of a deceased person's estate unless the apparent heirs of the estate include the decedent's children, spouse, former spouse, or parents and these do not qualify to apply for CHEPP benefits because of age or relationship to the decedent. An applicant (that is, the person on whose behalf application is made) must be a resident of Minnesota at the time of application.

C.7.a.(5) [[The Social Security Number of each family member who had income included in the household income figure used for determining CHEPP eligibility;]]

The Social Security Number of each family member whose income would be relevant to determining the family's eligibility for CHEPP benefits;

C.7.f. Proof of out-of-pocket payments for prepaid health coverages used to justify partial inclusion of payments by such prepaid plans in the eligible expenses used to satisfy the CHEPP deductible.

C.8. The CHEPP Deductible Is Out-of-Pocket. [[Eligible expenses offered in satisfaction of the CHEPP deductible must be out-of-pocket expenses or liabilities for which no third party is liable and for which no liable third party has paid. When a third party has paid for part of an eligible expense, the unpaid part may be considered an out-of-pocket expense if no other third party is or has been liable for it. Eligible expenses attributed to the CHEPP deductible need not have been paid in advance of CHEPP eligibility, and failure of an applicant to pay them shall not affect the applicant's eligibility.]]

Eligible expenses offered in satisfaction of the CHEPP deductible must be out-of-pocket expenses and/or liabilities as defined in paragraph B.30. above. Eligible expenses attributed to the CHEPP deductible need not have been paid in advance of CHEPP eligibility, and failure of an applicant to pay them shall not affect the applicant's eligibility. Payment of such deductible expenses by relatives, friends, or other persons having no legal duty to pay shall not defeat the out-of-pocket character of the expenses. If a payment by a liable third party is not available within a reasonable period of time (normally 120 days from the date of application), and if the applicant cannot otherwise qualify for the CHEP Program, the charges whose payments is in question may be treated as eligible expenses for satisfaction of the

CHEPP deductible, provided all required assignments of benefits are signed by the member of the applicant family who appears to be entitled to the delayed or disputed third party payment.

C.9. Satisfaction of the CHEPP Deductible. The applicant for CHEPP benefits may select which of his qualified expenses for services received subsequent to July 1, 1977 is to be the earliest for satisfaction of the CHEPP deductible. Having selected a beginning date, the applicant shall then offer his remaining qualified expenses incurred after that date in satisfaction of the deductible, in the order in which such remaining expenses were incurred. The date of an expense shall be deemed to be the date of the earliest service occasioning any part of the expense or charge. Applicants must be Minnesota residents at the time each service is received whose charge is used to satisfy the CHEPP deductible, but the services may be received in other states.

C.10. Income Considered in Special Cases. [[If an applicant or the applicant's spouse has petitioned for a dissolution of marriage and there exists a temporary decree or other legally binding agreement specifying the terms of separation, the gross income of the non-applicant spouse shall not be considered in computing the amount of the applicant's CHEPP deductible, provided the applicant is in fact separated from and living apart from the non-applicant spouse.]]

If a widow or widower applies for CHEPP benefits, the income received prior to death by the deceased spouse which was paid during the calendar year preceding the application year shall be disregarded in determining the CHEPP deductible which must be met by the applicant. Similarly, if an applicant or the applicant's spouse has petitioned for a dissolution of marriage and there exists a temporary decree or other legally binding agreement specifying the terms of separation, the gross income of the non-applicant spouse and any dependents living with the non-applicant spouse shall not be considered in computing the amount of the applicant's CHEPP deductible, provided the applicant is in fact separated from and living apart from the non-applicant spouse.

C.11. Duration of Eligibility. Eligibility for CHEPP-1 benefits shall run for 12 calendar months, beginning on the first day of the month and year of the earliest service occasioning a qualified expense offered in satisfaction of the [[applicant's CHEPP deductible]] CHEPP deductible. Such eligibility shall not cover the portion of any qualified expense offered in satisfaction of the deductible, but it may cover other qualified expenses incurred during the deductible period if such expenses were not known to be qualified at the time of application. Children who reach an age at which they become ineligible for CHEPP benefits during

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the 12 month period shall remain covered until the last day of the month in which they reach that age.

Eligibility for CHEPP-2 benefits shall run from the date of satisfaction of the CHEPP-2 deductible until the last day of the state fiscal year, this being currently June 30th. CHEPP-2 eligibility shall end, however, not later than the last day of the month in which the eligible nursing home patient reaches the age of 65 years.

Eligible persons who establish residence in another state shall be ineligible for CHEPP payments for services they receive after their change in residence.

C.13. Application for Payment of Qualified Nursing Home Expenses. Persons desiring CHEPP payment of qualified nursing home expenses shall apply for payment in a timely way. Application shall be made not later than 60 days after the end of the earliest month for which payment will be requested. Application for payments for the last month of the State fiscal year (i.e. June) shall be made not later than the last day of the following month.

C.14. Termination of Eligibility. Eligibility for CHEPP benefits may be terminated or interrupted by the commissioner if third party payments are made for services whose expenses were offered in satisfaction of the CHEPP deductible, regardless of whether they are made to the beneficiary, a provider of care, or the State. If a third party payment interrupts a family's CHEPP eligibility, the commissioner shall notify the family by letter. **If** the amount of deductible the family must re-incur to become eligible for CHEPP again **is small, it** shall be entered into the computerized central payments system as a residual spend-down amount. **Then** the family shall be permitted to continue to have medical claims billed to the CHEPP program, but amounts payable by the State shall be used to satisfy that residual spend-down before any actual payment is made on a family's behalf. Families which choose to re-establish eligibility for CHEPP benefits in this way are liable to providers of care for both their own copayment amounts and for State-share payments held back to satisfy the residual spend-down. Such families shall tell providers of health services of their interrupted CHEPP eligibility at the time of receiving health services.

D.3. Persons to Whom Payments Are Made. [[CHEPP benefits]] **CHEPP-1 benefits** shall be paid only to providers of health services, and then only after receipt of a proper billing for review and adjudication; provided, however, that benefits shall be paid to eligible persons directly if the eligible person has already paid the provider and the services

were received before the date of the eligible person's application for CHEPP. CHEPP-2 benefits shall be paid to the eligible nursing home resident or on his behalf to his spouse or guardian.

C.9. Procedures used by the Minnesota Medical Assistance program for review of the appropriateness or medical necessity of health services shall be used for the review of claims for CHEPP payments to the extent that they are not incompatible with this rule or with the Catastrophic Health Expense Protection Act. Providers of care shall observe such procedures, including prior-authorization procedures, as a condition of receiving payments from the CHEP Program.

Board of Veterinary Medicine Adopted Rules of the Board of Veterinary Medicine

Portions of the following rules were approved for adoption after July 1, 1976, and are printed here pursuant to the provisions of Minn. Stat. § 15.0412, subd. 4.

Chapter One: 7 MCAR §§ 11.001-11.006 Premises and Equipment.

MCAR § 11.001 Definitions. For the purposes of these rules and regulations the following terms shall have the meanings given as follows:

A. Veterinarian. "Veterinarian" means any person or professional corporation engaged in the practice of veterinary medicine.

B. Premises. "Premises" means the property, including the land and buildings thereon, used in the practice of veterinary medicine.

C. Equipment. "Equipment" means any instruments, tools, clothing, vehicles, and other equipment used in the practice of veterinary medicine.

D. Housing facilities. "Housing facilities" means any structure, cage, building or other facility used for the purpose of housing animals.

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§ 11.002 Premises.

A. Sanitation. The premises shall be kept clean and in good repair to facilitate acceptable sanitary practices and shall be kept free of accumulations of refuse.

B. Water and electric power. Reliable electric power and potable water adequate for the practice of veterinary medicine shall be made available at all times on the premises.

C. Storage. All supplies, including food and bedding, shall be stored in facilities which adequately protect such supplies against infestation, contamination or deterioration. Refrigeration shall be provided for all supplies that are of a perishable nature, including foods, drugs, and biologicals.

D. Pest control. An effective program for the control of insects and other vermin on the premises shall be established and maintained.

E. Waste disposal. Covered, vermin proof waste containers impermeable by water shall be used for the removal and disposal of animal and food wastes, bedding, dead animals, debris and other waste. Disposal facilities shall be so operated to prevent a nuisance condition, to minimize insect and other vermin infestation, odor, and disease hazards.

F. Biologicals and other drugs. Biologicals and other drugs shall be stored in such a manner as to prevent contamination and deterioration in accordance with the packaging and storage requirements of the United States Pharmacopoeia and the National Formulary, or any revision thereof, as adopted by Minn. Stat. § 151.01, subd. 5 (1969).

G. Equipment. Equipment shall be maintained in a clean and sanitary condition at all times.

H. Food and water. Food and water for animals shall be kept free from contamination and all receptacles for such food and water shall be kept in a clean and sanitary condition.

I. Cages. Cages shall be cleaned and sanitized prior to their use by newly arrived animals. Excreta, spilled feed, and water shall be removed from cages as often as necessary to prevent contamination of the animals therein and to reduce hazards to the health of such animals and to eliminate odors.

J. Communicable or contagious diseases. Animals affected with any clinical evidence of infectious, contagious or communicable diseases shall be separated from all other animals in such a manner as to minimize the dissemination of disease and such animals shall not be permitted to com-

mingle or come into contact with other animals on the premises.

§ 11.003 Housing facilities.

A. Structural strength. Housing facilities for animals shall be structurally sound and shall be kept in good repair. Such facilities shall be designed and constructed in such a manner as to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals.

B. Heating. Indoor housing facilities for animals shall be sufficiently heated when necessary to protect the animals from cold and to provide for their health and comfort. The ambient temperature shall not be allowed to fall below 50 degrees F. for animals not acclimated to lower temperatures.

C. Ventilation. Indoor housing facilities for animals shall be adequately ventilated to prevent the collection of offensive odors and to provide for the health and comfort of animals at all times. Such facilities shall be provided with fresh air either by means of windows, vents, or air conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or air conditioning shall be provided when the ambient temperature is 85 degrees F. or higher.

D. Lighting. Indoor housing facilities for animals shall have ample light, by natural or artificial means, or both, of sufficient intensity and uniform distribution to permit routine inspection and cleaning.

E. Interior surfaces. The surfaces of indoor housing facilities with which animals come into contact shall be so constructed and maintained that they are substantially impervious to moisture and may be readily sanitized.

F. Drainage. A suitable method shall be provided to rapidly eliminate excess water from indoor housing facilities. Drains shall be so constructed and maintained in good repair to avoid foul odors therefrom. If closed drainage systems are used, they shall be equipped with traps and so installed as to prevent any backup of sewage and other waste materials onto the floors of the facilities.

G. Cleaning and disinfecting. Housing facilities shall be cleaned and disinfected as often as it is necessary to maintain a clean and sanitary condition at all times.

H. Outside housing facilities. Outdoor housing facilities shall provide adequate shelter to properly protect animals from sun, rain, snow and other weather elements and shall provide adequate bedding, water and food.

§§ 11.004-11.006 Reserved for future use.

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Chapter Two: 7 MCAR §§ 11.007-11.008 Application Fees; Renewal Fees.

§ 11.007 Application fees.

A. Every person applying for a license to practice veterinary medicine in this state shall submit to the Board of Veterinary Medicine a fee of \$100.00 in the form of a check or money order payable to the State Treasurer.

B. The application fee required to be submitted for licensure shall not be returnable in the event permission to take the licensure examination is denied or licensure is denied for any other good cause.

C. The application fee received shall support only the application with which the fee was submitted. Any person who applies more than once shall submit the full application fee with each subsequent application.

§ 11.008 Renewal fee.

A. Each person now licensed to practice veterinary medicine in this state, or who shall become licensed by the Board of Veterinary Medicine to engage in the practice shall be responsible for tendering an annual license renewal fee if he wishes to practice veterinary medicine in the coming year, and/or remain licensed as a veterinarian.

B. Each licensee shall renew his license on or before March 1 of each year and thereupon the license of such veterinarian shall be renewed until March 1 in the next succeeding year.

C. The annual fee for licensure renewal shall be \$10.00 and shall be paid to the Executive Secretary of the Board on or before March 1 of each year. By January 1 of the year for which the renewal fee is due, the Board will issue a renewal application to each current licensee to the last address maintained in the board file. Failure to receive such notice shall not relieve the licensee of his obligation to pay renewal fees in such a manner that they are received by the board on or before the renewal date of March 1.

D. An application for renewal shall pay a late penalty of \$10.00 as well as the renewal fee if the application for renewal is received after March 1 of the current year. A renewed license issued after March 1 of any year shall be valid only until March 1 of the next succeeding year regardless of when the renewal fee is received.

E. The failure of a licensed veterinarian to pay the renewal fee provided herein within 60 days after March 1 in any year shall constitute grounds to suspend his license to practice veterinary medicine in this state. The suspended status placed upon a license may be removed only upon payment of renewal fees and the late penalty fees for each year or portion of a year during which the veterinarian practiced and was not currently renewed.

F. Any licensee who fails to renew his license for a period of five years or more must re-take the examination required for non-licensed applicants and tender all fees required for original licensure upon his written application to become actively renewed.

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PROPOSED RULES

Department of Agriculture

Proposed Rules Governing the Certification and Licensing of Pesticide Applicators, Permissible Methods of Pesticide Applications, Registration of Pesticides for Sale, Financial Responsibility, and Special Local Need Registrations

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the City Electric Plant, Small Hall, 130 Second Avenue N.W., Sleepy Eye, Minnesota on January 31, 1978, commencing at 1:00 p.m., or as soon thereafter as possible; the City Hall, Council Chamber, 720 Lake Street, Detroit Lakes, Minnesota on February 1, 1978, commencing at 1:00 p.m., or as soon thereafter as possible; and, the State Office Building, Room 57, Wabasha Street between Aurora and Fuller Streets, Saint Paul, Minnesota on February 3, 1978, commencing at 10:00 a.m., or as soon thereafter as possible and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to: Howard L. Kaibel, Jr., Office of Hearing Examiners, 1745 University Avenue, Room 300, Saint Paul, Minnesota 55104, phone (612) 296-8107 either before the hearing or after the hearing until the record is closed. The record will remain open for five working days after the public hearings end or for a longer period not to exceed 20 days if ordered by the Hearing Examiner.

The proposed rules, if adopted, would establish rules governing the certification and licensing of pesticide applicators, permissible methods of pesticide applications, registration of pesticides for sale, financial responsibility, and special local need registrations. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Minnesota Department of Agriculture, 420 State Office Building, Saint Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing. The department's authority to promulgate the proposed rules is contained in Minn. Stat. § 18A.43. A "statement of need" explaining why the department feels

the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing, will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally an individual who spends more than \$250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250.00 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

Bill Walker
Commissioner of Agriculture

This rule (3 MCAR 1.0338) for Minnesota Pesticide Control Law of 1976 hereby repeals previous rules and regulations AGR 329-336 (Economic Poisons and Devices); AGR 348-357 (Custom Spraying and Dusting); and AGR 233-243 (Structural Pest Control). The need for this change was brought about by the passage of the Minnesota Pesticide Control Law of 1976.

Rules as Proposed

Chapter Fifteen: Pesticide Control

3 MCAR § 1.0338 Pesticide Control.

A. General.

1. Authority. The rules contained herein are prescribed pursuant to Minn. Stat. §§ 18A.21 to 18A.48, by the Commissioner of Agriculture to implement provisions to protect the immediate and future health, welfare, and economic status of the people of this state through the control of the use of various pesticides. The provisions specified in these rules are in addition to those set forth in the Act itself.

2. Definitions. As used in 3 MCAR § 1.0338, the following definitions and those definitions in Minn. Stat. ch. 18A, shall apply:

a. "Master Structural Pest Control Applicator" means a person who has the necessary qualification to properly plan, determine, and supervise the selection and application of pesticides in structural pest control,

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who is thoroughly familiar with the toxic effects of pesticides on man and on other living things, and who is familiar with the laws, rules, and regulations governing the same and is so licensed by the Commissioner, provided he/she shall not be permitted to engage in the planning and supervision of the selection and application of fumigants unless qualified as a fumigator.

b. "Journeyman Structural Pest Control Applicator" means a person who has the necessary qualifications in the practical selection and application of pesticides with knowledge of their toxic effect on man and other living things, and who is engaged as an employee of or is working under the direction of a Master Structural Pest Control Applicator and is so licensed by the Commissioner.

c. "Structural Pest Control Applicator's Apprentice, Trainee, or Assistant" is a person, other than a Master or Journeyman Structural Pest Control Applicator, who is engaged as an employee of a Master Structural Pest Control Applicator, or working under the immediate and personal supervision of either a Master or Journeyman Structural Pest Control Applicator for not to exceed 120 days of employment, in learning and assisting in the selection and application of pesticide and has been registered with the Commissioner to so engage in structural pest control activities.

d. "Fumigator" means a person who has the necessary qualifications in the practical selection and application of fumigants with knowledge of their toxic effect on man and other living things and who is so licensed by the Commissioner.

3. Incidents.

a. Persons involved in, or responsible for, an incident involving a pesticide such as flood, fire, tornado, motor vehicle accident, poisoning, exposure, or leaking container shall report such incident to the Minnesota Department of Agriculture and provide such information as may be requested by the Commissioner.

B. Special Local Needs.

1. "Special Local Need" shall mean a pest problem presently existing or likely to occur within the state which cannot be effectively controlled because:

a. There is no pesticide registered by EPA for such use, or

b. There is no EPA registered product which, under the conditions of use within the state, would be as safe and/or as efficacious for such use within the terms and conditions of EPA registration, or

c. An appropriate EPA registered pesticide product is not available.

2. Any person may make application for a special local need registration. Application shall be made in writing to the Commissioner and shall include all information required in Minn. Stat. § 18A.22, subd. 2 (a-d) and meet the requirements set forth in Minn. Stat. § 18A.23 and 40 CFR 162.150-162.158, Subpart B.

3. If the Commissioner, based upon information in the application, deems it in the public interest, and deems that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects, he may issue a special local need registration in accordance with Minn. Stat. § 18A.22, subd. 2 (a-d), § 18A.23, and 40 CFR 162.150-162.158, Subpart B.

4. The Commissioner shall, within 20 days of issuance of a special local need registration:

a. Publish a notice of the special local need registration in the State Register and the EQB Monitor.

b. Issue a news release with information stating that a special local need registration has been issued and citizen's right to petition for a hearing to all legal newspapers of general circulation in the affected area and any other newspaper the Commissioner deems appropriate.

5. A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals, shall have 30 days from publication notice in the State Register to file written objections with the Commissioner regarding the issuance of the special local need registration. Upon receipt of said written objections, and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding said registration.

6. The Commissioner shall revoke, suspend, or amend a special local need registration upon the deter-

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mination after notice and hearing that, under the terms of the registration granted, the pesticide may cause unreasonable adverse effects on the environment, or that the special local need no longer exists.

7. A special local need registration shall be valid for one calendar year or portion thereof unless revoked or suspended and may be renewed annually by application in writing to the Commissioner. No special local need registration shall be valid for more than one day less than five years.

C. Certification and/or Recertification Requirement; Commercial, Non-Commercial, and Structural Pest Control Applicators.

1. Certification Requirement.

All Minnesota Commercial, Non-Commercial, and Structural Pest Control Applicators shall be required to take and pass a proctored written examination or examinations related to the category classification selected by the applicant prior to certification and licensing. Upon passage of such an examination or examinations, the applicator will be certified for a period up to five years. Such examinations shall meet or exceed the requirements in FIFRA Law and Regulations 40 CFR 171.4 (b) and (c) and 40 CFR 171.6. Such examinations will be prepared and administered by the Commissioner or his designee.

2. Recertification Requirement.

a. Commercial and Non-Commercial Applicators certified in accordance with (Section C. 1.) may be recertified by:

1. Satisfactorily completing an approved training program during the certification period, or

2. Re-examination in accordance with procedures set forth in Section C. 1. 3. Participation at such a training program or re-examination will extend the applicator's certification for a period up to five years from the date of attendance or examination.

b. Structural Pest Control Applicators may be recertified by participating in an approved training program or passing a written, proctored examination annually for relicensing and recertification.

3. Re-examination Procedures.

If any applicant fails to achieve a passing score on any examination, he/she shall be eligible to retake the examination after 15 days from the date of notification of examination failure. If any applicant fails to achieve a

passing score on any examination upon retaking it, he/she shall be eligible to retake the examination after 30 days from the date of notification of examination failure. Upon submission to the commissioner in writing of specific reasons within 30 days from the date of notification of failure of second examination, an appeal of the score may be made.

4. Certification Alternatives.

Upon written application, the Commissioner may grant to an individual an alternative for the certification requirement and procedures set forth in this rule provided that:

a. there is good cause why the individual cannot comply with the provision of this rule;

b. the requirements and procedures provided for in the alternative is equivalent to those set forth in this rule;

c. when an examination is involved, the subject matter and difficulty of the examination is equivalent to the examination for which the alternative is granted;

d. the spirit and intent of the act in this rule are not violated; and,

e. the environment or the public will not be adversely affected by the alternative requirements or procedures.

D. Private Applicator.

A Private Applicator shall be deemed certified when he/she purchases a restricted use pesticide from a licensed dealer and signs a sales register attesting that he/she read the label of the pesticide and will follow the directions for use and the precautions to protect the user and the environment. He/she shall also attest that, within the past three years, he/she has completed one or more of the following state approved certification programs:

a. State approved home study; or

b. Pesticide training session; or

c. A personal interview by the Commissioner.

d. Written or oral examination.

E. License.

1. An applicant for a "Master Structural Pest Control Applicators License" shall take and pass a written

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examination prepared and administered by the Commissioner. Such examination shall determine whether the applicant has adequate training, experience, and technical knowledge to properly plan, determine, and supervise the selection and application of pesticides in structural pest control.

2. An applicant for a "Journeyman Structural Pest Control Applicator License" shall take and pass a written examination prepared and administered by the Commissioner. Such examination shall determine whether the applicant has adequate training, experience, and workable knowledge in the practical selection and application of pesticides in structural pest control and familiarity with toxic effect of pesticides on man and other living things.

3. An applicant for qualification as a "Structural Pest Control Fumigator" shall in addition to securing a Master or Journeyman license, take and pass a written examination prepared and administered by the Commissioner. Such examination shall determine whether the applicant has adequate training, experience, and working knowledge in the practical selection and application of fumigants and familiarity with the toxic effect of fumigant on man and other living things.

4. An applicant for a "Restricted Use Dealer License" shall take and pass a written examination prepared and administered by the Commissioner which shall determine whether the applicant has adequate training, experience, and working knowledge of pesticide types and characteristics, proper pesticide storage and disposal techniques, pesticide safety and label and labeling comprehension.

5. Upon written application, the Commissioner may grant to an individual an alternative for the licensing requirement and procedures set forth in this rule provided that:

- a. there is good cause why the individual cannot comply with the provision of this rule;
- b. the requirements and procedures provided for in the alternative is equivalent to those set forth in this rule;
- c. when an examination is involved, the subject matter and difficulty of the examination is equivalent to the examination for which the alternative is granted;
- d. the spirit and intent of the act in this rule are not violated; and,

e. the environment or the public will not be adversely affected by the alternative requirements or procedures.

F. License Renewal; Structural, Commercial, and Non-Commercial.

1. Every person licensed as a master or journeyman in structural pest control shall be required to attend annually at least one program of continuing education in the use of pesticides in structural pest control approved by the Commissioner as a condition for renewal of the license under the Act. Failure to attend such programs as required may be grounds for revocation, termination, suspension, or refusal to renew said license.

2. Licensed Commercial and Non-Commercial Applicators must renew their license on an annual basis. Qualification for license renewal can be accomplished by annual attendance at an approved continuing education program in the use of pesticides held prior to the expiration date of the present license or by successful completion of an examination prepared and administered by the Department of Agriculture.

3. Failure to renew said license prior to the expiration date will require the applicant to revert to the status of a new applicant.

4. Upon written application, the Commissioner may grant to an individual an alternative for the license renewal requirement and procedures set forth in this rule provided that:

- a. there is good cause why the individual cannot comply with the provision of this rule;
- b. the requirements and procedures provided for in the alternative is equivalent to those set forth in this rule;
- c. when an examination is involved, the subject matter and difficulty of the examination is equivalent to the examination for which the alternative is granted;
- d. the spirit and intent of the act in this rule are not violated; and,
- e. the environment or the public will not be adversely affected by the alternative requirements or procedures.

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G. Restricted Pesticides.

1. In addition to all pesticide uses classified by EPA as restricted use, and all pesticide uses classified as restricted use by any other federal or state agency statutorily authorized to do said classification, the following uses and procedures are prescribed:

a. The following inorganic arsenical compounds: Sodium arsenite, Calcium arsenite, Lead arsenate, Sodium arsenate, Arsenic trioxide, Arsenic acid, and Arsenic Pentoxide shall have no uses for weed control.

b. Sodium Fluoroacetate, "Compound 1080" shall mean sodium fluoroacetate or any mixture, formulation, dilution, or combination thereof.

(1) All "1080" shall be kept in the custody and used under the direct supervision of a Master Structural Pest Control Applicator and when held in storage shall be kept in a locked cabinet or vault. Containers and other equipment for weighing, measuring, or mixing "1080" shall be labeled "POISON" and kept in a locked cabinet or vault.

(2) The use of soft drink bottles or other food-type containers for storing products containing "1080" is prohibited.

(3) The use of "1080" in dwellings is prohibited. Under certain conditions of rodent infestations, the Commissioner may grant a special use permit for this compound for a stated date and dwelling location upon written application and finding that:

(a) the applicant has shown good cause why an exception would be reasonable, practical, and should be granted;

(b) the environment and the public will not be adversely affected;

(c) precaution will be taken to protect the environment and the public; and,

(d) the spirit and intent of the act in this rule are not violated.

(4) The use of "1080" is prohibited, except upon special written authorization from the Commissioner; a follow-up report is required in all instances.

2. No person shall display any restricted use pesticides in any public area of a store or other place to which the general public has access unless displayed under a sign or placard bearing the following statement in capital letters not less than two inches high: "RE-

STRICTED USE PESTICIDES — PURCHASER MUST BE CERTIFIED."

H. Storage, Handling, and Use of Pesticides.

1. No person shall use, store, display, or handle any pesticide or container thereof in any manner inconsistent with labeling or so as to endanger humans, damage agricultural products, food, livestock, wildlife, pollinating insects, or pollute the environment.

2. All persons storing liquid pesticides in containers of a rated capacity of 500 gallons or more shall provide a means of containment of the amount of the rated storage in the event a leak or break should occur in the original storage unit. Storage must be provided with suitable lock up when unattended.

3. All persons shall maintain all equipment in proper working order and shall use only that equipment capable of performing all functions necessary to insure proper application of pesticides.

4. All persons shall use necessary safe pesticide handling procedures and personal protective equipment, respirators, protective clothing, and medical monitoring procedures as appropriate to each situation to protect himself/herself and his/her employees.

5. All persons shall use only measuring equipment which is accurately calibrated to the smallest unit in which the pesticide is to be weighed and measured for application.

6. All persons shall maintain a uniform mixture of pesticide in equipment during application.

7. All persons shall make all applications of pesticides in good workmanlike manner utilizing a pattern that will give uniform distribution of pesticides without creating hazard to non-target areas.

8. All persons shall clean equipment used for pesticides so that no injurious residues from prior usage may cause injury to agricultural crops, livestock, or the environment.

9. All persons shall label all mixing and transportation pesticide containers, other than the actual applicative equipment, with the name of each active ingredient and use reasonable care to protect from obliteration the labels on all original pesticide containers until disposed of pursuant to the requirements of these rules.

10. All persons using aircraft in the application of pesticides shall use and operate only aircraft that has equipment which will give uniform coverage to the area

PROPOSED RULES

to which the pesticide is applied. All such aircraft shall also be equipped with a positive shut-off which shall prevent the leaking or dissemination of said pesticide on any non-target areas over which flight is made.

11. The license or registration certificate issued by the Commissioner to a pesticide applicator company shall be prominently displayed to the public in their place of business.

12. All individuals licensed by the Commissioner shall have such license, card, or document as issued by the Commissioner to present upon demand as a means of identification when engaged in pesticide application activities.

I. Enforcement.

1. The Commissioner, after notice and hearing may deny, suspend, revoke, or refuse to renew a registration, license, or certificate when a person is in violation of Minn. Stat. (1976), as amended, § 18A.21 to 18A.48 or rules promulgated thereunder.

2. No person shall knowingly falsify all or any part of application for registration, application for license, any records required to be maintained, any reports filed or any other information submitted to the Commissioner pursuant to Minn. Stat. § 18A.21 to 18A.48 rules promulgated thereunder.

J. Financial Responsibility.

1. "Commercial Pesticide Applicators." Applicants for Commercial Pesticide Applicator licenses shall furnish evidence of financial responsibility acceptable to the Minnesota Department of Agriculture prior to the issuance of such license. This requirement may be satisfied by:

a. Certificate of a net asset statement issued by a financial institution authorized to do business in the state by the Minnesota Department of Commerce, showing sufficient assets available to satisfy judgments functioning equivalent to the provisions of Section J. 2.

b. Bond issued by a bondsman authorized to do business in the state by the Minnesota Department of Commerce.

c. Liability insurance issued by a company authorized to do business in the state by the Minnesota Department of Commerce.

2. All applicants for a Commercial Applicator's license or renewal thereof shall furnish proof of financial responsibility of a minimum of fifty-thousand dollars (\$50,000) in either net assets or in the form of a performance bond or insurance in the above below, or a combination thereof.

a. Fifty-thousand dollars (\$50,000) for bodily injury or death, each person.

b. Fifty-thousand dollars (\$50,000) for bodily injury or death, each occurrence.

c. Twenty-five thousand dollars (\$25,000) for property damage, each occurrence.

The Commissioner may, when deemed in the public interest and the spirit and intent of the act, require proof of financial responsibility in an amount in excess of fifty-thousand dollars (\$50,000) for an individual applicant reasonably commensurate with the applicant's possible liability exposure.

3. The Commissioner may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount not exceeding five-hundred dollars (\$500) for aerial and ground commercial applicators.

4. "Structural Pest Control Applicators." Applicants for a Structural Pest Control license shall furnish evidence of financial responsibility acceptable to the Minnesota Department of Agriculture prior to the issuance of such license. This requirement shall be satisfied by liability insurance issued by a company authorized to do business in the state by the Minnesota Department of Commerce.

Minimum coverage requirements shall be as follows:

a. One-hundred thousand dollars (\$100,000) for bodily injury or death, each person.

b. Two-hundred thousand dollars (\$200,000) for bodily injury or death of two or more, each occurrence.

c. Ten-thousand dollars (\$10,000) for property damage, each occurrence.

5. Such financial responsibility shall be clearly conditioned to cover liability resulting from the han-

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dling, storage, disposal, application, use or misuse of any pesticide.

K. Reciprocal Agreement.

1. Reciprocal agreements shall apply to all non-residents licensed and certified to apply pesticides for restricted use as Commercial Applicators and Private Applicators so long as such license and certification has not been cancelled or suspended for cause by the jurisdiction issuing the license and certification on which issuance of the reciprocal license and certification is based.

2. In all cases, when a license and certification has been suspended or revoked by either jurisdiction in the Agreement, the appropriate official of the reciprocating jurisdiction shall be notified detailing the reasons for such suspension or revocation.

3. The Commissioner is authorized to enter into an informal reciprocal Agreement with any other state which has a similar state plan for certification of Pesticide Applicators. Under such Agreement, the designated person of the state party to the reciprocal Agreement is granted full authority, including reciprocal recognition of licensing and certification standards, training and testing procedures, and related matters in all states participating in such Agreements.

4. The Commissioner reserves the right to test any applicant from another state who is seeking certification in Minnesota.

Department of Health Proposed Rules Regarding Early and Periodic Health and Developmental Screening Programs

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (Supp. 1977), in the Board Room, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Thursday, February 2, 1978, commencing at 9:00 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed rules captioned above. Statements may be made orally and

written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Peter Erickson, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8118, either before the hearing or within five days after the close of the hearing. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

A copy of the proposed rules is attached hereto and made a part hereof.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to the Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

A Statement of Need explaining the Commissioner of Health's position relative to the necessity for the proposed rules and a Statement of Evidence outlining the testimony and evidence which will be introduced on behalf of the Commissioner in support of the proposed rules will be filed with the Hearing Examiner's Office at least twenty-five (25) days prior to the hearing and will be available there for public inspection. The statutory authority of the Commissioner of Health to promulgate and adopt these rules is contained in Minn. Stat. §§ 144.10, § 144.11 (1976), § 144.12 (Supp. 1977), § 144.07(1), § 144.09 (1976) and § 15.0412 subds. 1 and 3 (Supp. 1977).

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 a year or five (5) hours per month for lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

Warren R. Lawson, M.D.
Commissioner of Health

PROPOSED RULES

Rules as Proposed

Chapter Eleven: 7 MCAR §§ 1.174-1.178

7 MCAR § 1.174 General.

A. Declaration of purpose, scope and applicability.

The purpose and scope of these rules is to establish minimum standards and procedures for MDH approved nurse-administered local provision of comprehensive health screening of children.

These rules apply to those organizations seeking MDH approval in order to qualify for reimbursement by third parties for which such reimbursement requires MDH approval; and constitutes standards for the nurse-supervised EPSDT programs as prescribed in Department of Public Welfare (DPW) Rule and Preschool Screening Program as prescribed in Department of Education (DPE) Rule.

B. Definitions.

For the purposes of these rules the following terms have the meanings given them:

1. "Applicant" means a local organization, such as but not limited to a community health agency, hospital, voluntary nonprofit group or school, which is seeking approval and has submitted for approval a completed plan for an Early and Periodic Screening (EPS) program.

2. "Application" means a written request for MDH program approval in a format as specified by the MDH. This format shall require submission of the information required by Rule 7 MCAR § 1.176 A, B, C, herein.

3. "Approved program" means a screening program which offers regularly scheduled comprehensive health screening for children from birth through 20 years of age, in accordance with the standards contained in Rule 7 MCAR § 1.175, and which has been approved by MDH.

4. "Children" means those individuals from birth through 20 years of age.

5. "Diagnosis" means the systematic classification of the nature or the cause of physical or mental disease

or abnormality through the combined use of health history, physical, developmental and psychological assessments and laboratory tests and x-rays.

6. "Early" means the entrance of a child to the health care system at his/her youngest possible age.

7. "EPS" means Early and Periodic Screening.

8. "EPS Procedures Manual" (1977 edition) means the document written by MDH staff in which the concepts and methods for program administration and screening procedures are specified and can be promulgated and utilized by local health programs. The screening procedures and referral criteria contained in the manual are based on Academy of Pediatrics standards and specific scientific criteria for a given test.

9. "EPS trained nurse" means the nurse who is trained to perform the screening assessments and tests in an approved program inasmuch as she meets the qualifications as contained in Rule 7 MCAR § 1.175 B. 1. b.

10. "MDH" means the Minnesota Department of Health.

11. "Periodic" means health screening occurring at predetermined intervals.

12. "Periodicity schedule" means the schedule set out in Rule 7 MCAR § 1.175 A. 3., and which specifies the frequency and age ranges at which the specified screening assessments and tests are to be administered to a child.

13. "Physician Integration Plan" means the option whereby an MDH approved program seeks to extend its services by substituting a physician-administered health history, physical examination and laboratory services for the nurse-administered health history, physical assessment and laboratory services.

14. "Preschool Screening Program" means the health and developmental screening program under the auspices of the Department of Education, whereby children are screened once before they enter kindergarten, pursuant to Laws of 1977, ch. 437.

15. "Screening" means the use of those simple and quick procedures as outlined in Rule 7 MCAR § 1.175 A. 2., to sort out apparently well children from those in need of more definitive study of possible physical or developmental problems.

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PROPOSED RULES

16. "Screening and referral form" means a report when completed by approved programs and submitted to MDH provides a summary of the results of screening for each child and contains data which can be used for MDH and local program analysis and evaluation pursuant to Rule 7 MCAR § 1.178 E.

17. "Sliding fee scale" means a pre-determined schedule which identifies the amount to be paid by the parent(s) or guardian(s) toward the cost of screening. The sliding fee scale is developed by the applicant or approved program and is based on such factors as average incomes for the region, individual family income and the number of persons in the family.

18. "Third-party reimbursement" means payment to approved programs, by sources other than the child, or his/her parent(s) or guardian(s) and which is applied to the cost of screening. The sources of this reimbursement may include Title XIX (Medical Assistance), other federal, state or local monies, insurance benefits or in-kind contributions converted into dollar equivalency.

19. "Title XIX (Medical Assistance)" means the program authorized under the Social Security Act, USC 42, Title XIX — Sec. 1901-1910, and rules promulgated thereunder, to provide medical care for individuals whose resources do not enable them to purchase such care.

20. "Tracking" means documenting the results of diagnosis and treatment resulting from the screening of a child. This data also may be used to evaluate the type and appropriateness of referrals.

21. "Treatment" means medical, dental, nursing, preventive, rehabilitative or other relevant services to prevent, correct, or ameliorate disease or disability detected by diagnostic services from a qualified professional.

7 MCAR § 1.175 Minimum standards to qualify for MDH approval.

A. Applicants seeking MDH program approval shall develop a screening program containing the following components:

1. An outreach component which shall include a demonstrated ability to stimulate or encourage participation in the screening program.

a. Information about a screening program may be disseminated by a variety of methods such as the following:

(1) Person-to-person communication.

(2) Public information outreach such as, but not limited to, planned meetings with groups, contacts with agencies such as schools or Head Start, in order to obtain assistance with regard to their specific child populations, distribution of pamphlets, use of the mass media.

b. Outreach efforts shall be coordinated with the outreach function of local welfare departments in relation to children under the Title XIX (Medical Assistance) program and with local school districts in relation to children under the Preschool Screening Program.

2. A screening component which shall include a demonstrable ability to provide at least the following assessments and tests which must be available at the frequency and age ranges as specified in the Periodicity Schedule found in Rule 7 MCAR § 1.175 A.,3. Referrals resulting from the assessment and testing shall be based on referral criteria as stated in 1977 EPS Procedures Manual.

a. A health history assessment which shall include at least an individual review of past and present health status including perinatal, psychosocial and family health.

b. An immunization assessment which shall include a review of the immunization status of the child in relation to the following immunizations: Diphtheria, Pertussis, Tetanus, Polio, Measles, Mumps, Rubella.¹

c. A nutrition status assessment which shall include at least a review of the child's food intake for a 24 hour period preceding screening.

d. A physical growth assessment which shall include measurement of the child's height, weight and head circumference and comparison with the ranges considered normal for children of that age.

e. An unclothed physical assessment which shall include an inspection of pulse, respiration, blood pressure, head, eyes, ears, nose, pharynx, neck, chest, heart, lungs, genitals, abdomen, spine, extremities, joints, muscle tone, skin and neurologic reaction.

f. A dental inspection which shall include inspection of the child's mouth for any evident oral or dental abnormalities.

g. Developmental screening tests which shall assess the child's development in the areas of fine and

¹ It is recommended that approved programs provide immunizations on site.

PROPOSED RULES

gross motor skills, speech and language, social-emotional behavior and self-help skills.

(1) In order to assess these developmental areas, MDH recommends the use of the Denver Prescreening Developmental Questionnaire (PDQ) with its manual and the Denver Developmental Screening Test (DDST) with its manual or an acceptable alternative meeting the criteria of Rule 7 MCAR § 1.175 A. 2. g.(2).

(2) Alternative tests may be substituted for the Denver Developmental Screening Test (DDST) upon approval by MDH.

(a) An applicant considering substitution for the Denver Prescreening Developmental Questionnaire (PDQ) and the Denver Developmental Screening Test (DDST) shall submit a narrative which describes the alternative test in the following areas: content and construction of the test, norms, administration, scoring and interpretation, validity and reliability.

(b) In order to secure approval of an alternative test, such a test must be able to provide at a minimum:

(i) Written procedures for administration and scoring.

(ii) Evidence of validated norms for age range being tested.

(iii) The same information regarding the child's development as would be provided through the use of the Denver Developmental Screening Test (DDST).

h. A hearing assessment shall include procedures which test for deviations from the normal range of auditory acuity.

(1) MDH approved programs must use the puretone audiometric screening procedure. A Verbal Auditory Screening for Children (VASC) hearing procedure as described in the 1977 Edition of VASC Manual may be used for four year old children.

i. A vision assessment shall include procedures which test for eye health deviations, including the normal range of visual acuity and muscle balance in the child. Approved programs must:

(1) Observe and examine the child's pupils

and light following reflex, presence or absence of nystagmus, muscle balance, and an external inspection of the eyes.

(2) Muscle balance screening procedures include at least observation, cover test, Hirschberg test and the Worth 4-Dot Test.

(3) Test for visual acuity. A test, as appropriate for the child's age, such as the Screening Test for Young Children and Retardates (STYCAR), the Snellen E Cube, the Snellen Alphabet Chart, and plus lenses shall be used.

j. Laboratory tests: the following tests shall be administered according to the Periodicity Schedule found in Rule 7 MCAR § 1.175 A. 3.

(1) Tuberculin tests indicate exposure to active tuberculosis and may indicate need for medication.

(2) Urine and Bacteriuria (Bililabstix and Culturia Assay) test for bacteria and other abnormal substances in the urine.

(3) Anemia (Microhematocrit, Hemoglobin) tests for anemia and also indicates other blood abnormalities.

(4) A Blood Lead — test for increased lead absorption and for lead poisoning in children whose history indicates the possibility of exposure to undue levels of lead in the environment or atmosphere.

(5) A Sickle Cell Test shall be administered only with the consent of the parent(s), or guardian(s), or the child, if he/she is over 18 years, and only to those children at risk for the sickle cell trait or disease.

3. The assessment and tests listed above shall be available on the following periodic schedule.

4. An interpretation and parent education component which shall include discussions aimed at sharing with the family and child information collected during screening. These discussions must incorporate guidance regarding sound health practices, normal growth and development, and the clarification of any concerns on the part of the child or family.

5. A referral component which shall include an organized system of arranging for children with problems

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PROPOSED RULES

EPS PERIODICITY CHART

INTERVALS	MONTHS						YEARS					
	(1)	6-7	8-11	12-15	16-19	20-35	3-4	5-7	8-10	11-13	14-17	18-21
History												
Health		X	X	X	X	X	X	X	X	X	X	X
Perinatal		X	←	←	←	←	←					
Psychosocial		X	X	X	X	X	X	X	X	X	X	X
Nutrition		X	X	X	X	X	X	X	X	X	X	X
Immunization Review		X	X	X	X	←	←	X	←	←	X	←
Developmental												
DDST		X	X	←	←	←	X					
PDQ				X	X	X						
Assessment												
Height		X	X	X	X	X	X	X	X	X	X	X
Weight		X	X	X	X	X	X	X	X	X	X	X
OFC		X	X	X	X	X	←	←				
Physical Inspection		X	X	X	X	X	X	X	X	X	X	X
Oral Inspection		X	X	X	X	X	X	X	X	X	X	X
Blood Pressure							X	X	X	X	X	X
Tests												
Hearing		X	←	X	X	X	X	X	X	X	X	X
Vision		X	←	X	←	X	X	X	X	X	X	X
Urine (BiliLabstix)							X	←	←	←	←	←
Bacteriuria (females)							X	←	X	←	←	←
Microhematocrit or Hgb.		X	←	X	←	X	X	←	←	←	X	←
Blood Lead (Only if history positive)				X	←	X	X					
Sickle Cell (Upon parental request)		X	←	←	←	←	←	←	←	←	←	←
Tuberculin			X	←	←	←	←	←	←	←	←	←

(1) The period, birth to six months, is not addressed in the program based upon the assumption that nearly all children of this age interval are receiving ongoing physical care.

Procedure to be completed if not done at the previous visit; or on the first visit.

identified through screening to be seen by an appropriate resource for evaluation, diagnosis or treatment. Arrangements shall be made to establish all children who have been screened with ongoing health care services.

6. A follow-up component which shall include an organized system for securing information on children who are referred to another resource for evaluation,

diagnosis and treatment. Follow-up efforts are to assure that the required services were made available and to evaluate the effectiveness of the screening program.

a. A follow-up plan shall consist of at least the following:

(1) Written and formal arrangements with

PROPOSED RULES

other agencies such as the county welfare departments, Head Start, community action councils, public health nursing services, and school services to define and coordinate each agency's responsibilities with respect to follow-up.

(2) A description of activities such as personal contact with the child, family or referral resource. At least two attempts shall be made to contact parent(s) or provider(s) concerning diagnosis and treatment results.

(3) A written identification of nursing personnel who shall have supervisory responsibility for follow-up.

B. Personnel for EPS Screening of Children

1. Qualifications and/or responsibilities of the screening personnel: An individual may perform one or more of the functions in the screening program provided that the appropriate qualifications are met.

a. EPS clinic coordinator shall have responsibility for coordination and management of the local screening program. These responsibilities include management as well as specific organization of activity in the clinics.

b. EPS trained nurse shall be either a Pediatric Nurse Associate who is a graduate of an accredited university postgraduate program in Pediatric Nursing or meet all of the following criteria:

(1) Be currently licensed as a professional nurse by the Minnesota Board of Nursing.

(2) Have successfully completed EPS training seminars provided by MDH, or have participated in equivalent training programs designated by MDH.

(3) Demonstrate ability to satisfactorily perform to an EPS Consultant designated by MDH, those child assessments as required in Rule 7 MCAR § 1.175 A. 2. a-j.

(4) Have the ability to work effectively with children based on recommendations from the EPS clinic coordinator, agency nurse supervisor, or the EPS Consultant under contract with MDH.

c. EPS Laboratory Assistant shall be:

(1) A lab technician or an assistant who can document training in performing the specific tests used

in the screening session under the supervision of the EPS nurse.

d. EPS Vision and Hearing Technician shall:

(1) Have documentation of the successful completion of a course in vision and hearing screening offered by MDH and demonstrate ability to satisfactorily perform the vision and hearing screening as required in Rule 7 MCAR § 1.175 A. 2. h., i, and;

(2) If the VASC is used, have documentation of the completion of training to perform the Verbal Auditory Screening of Children (VASC).

e. EPS Clinic Assistant shall:

(1) Be able to document the completion of training in the administration of the developmental tests selected for use in the screening program. Such training may be provided by the EPS nurse or consultant who has documented training in developmental testing from institutions such as but not limited to area mental health centers, or community colleges and schools.

(2) Have experience in working with children either through paid employment or volunteer activity.

f. EPS clerk shall have responsibility for clerical and receptionist functions, and shall have acquired clerical and human relations skills through paid employment or voluntary activity.

C. The physical facility shall meet the following requirements:

1. Separate areas shall be provided for the various screening procedures, as well as waiting and play areas.

2. Physical privacy shall be maintained for interviewing and physical assessment.

3. Equipment needed for the assessments and tests shall be available to the program and maintained in serviceable and reliable condition so as to insure the integrity of the tests specified in Rule 7 MCAR § 1.175 A. 2. a-j.

7 MCAR § 1.176 Application procedures for EPS program approval.

A. Local organizations shall notify MDH in writing of

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PROPOSED RULES

their intent to establish an EPS program and to apply for MDH program approval in accordance with the standards specified in these rules. The sections of the application addressing Statement of Need, and Evaluation and Fiscal Management shall be considered for purposes of program planning at state and local level and if necessary, for provision of technical consultation by MDH. The section of the application relating to the Methods of Accomplishing Program Components, and Personnel shall be applicable to the approval process as defined in Rule 7 MCAR § 1.176 D.

B. Upon receipt of the letter of intent, MDH shall transmit an application and instructions to the applicant.

C. Submission of Application. The applicant shall submit the completed application to MDH and to the MDH District Nursing Consultant for the district in which the applicant is located. The application shall include at least the following information:

1. A statement of need for EPS — The applicant shall provide a general statement of the extent of the need for this kind of preventive health service in the community to be served and includes information on the following:

- a. The geographic area of the proposed program.
- b. The age range and numbers of children to be served in each age group.²
- c. The estimate of the number of Title XIX (Medical Assistance) eligible children identified in each age group.
- d. The identification of all the school districts within the geographic area of the proposed program.
- e. The identification of other child and adolescent health screening programs in the area and specification of how the proposed program will coordinate with these programs.

2. A description of the method of accomplishing each of the program components: outreach, screening and interpretation, education, referral and follow-up.

3. Personnel — Outline the number and type of personnel necessary to implement each component and the plans for training personnel.

4. Evaluation — Outline the methods other than

¹ An applicant may elect to serve only one age group of children.

those specified in this Rule, by which the applicant will evaluate its own program. Such methods may include parent surveys, and/or analysis of the use of referral resources, and numbers of children screened.

5. Fiscal Management — include the following:

- a. The method for determining unit cost.
- b. The plan for implementing a sliding fee scale and for collecting third-party reimbursements and a copy of the sliding fee scale except where prohibited by Laws of 1977, ch. 437, the Preschool Screening Act.
- c. The copy of the authorization from the duly constituted authority (such as county commissioners, city councils) to charge fees for service, except as prohibited by Laws of 1977, ch. 437, the Preschool Screening Act.

D. Review and Disposition of Application

There shall be a two stage approval process.

1. With regard to the first stage of approval:

a. Upon receipt, the application shall be reviewed by MDH staff in order to determine that it contains the information specified in Rule 7 MCAR § 1.176 C. 1-5.

b. The MDH staff shall make arrangements for the local EPS personnel to be trained in EPS seminars.

c. An initial screening session shall be scheduled by the applicant. An EPS Consultant, as designated by MDH will be assigned to the applicant for on-site consultation to assist the applicant to develop adequate skills. A subsequent consultation may be provided as necessary.

2. Provisional Approval

a. Upon completion of application, training, the initial screening session, and a satisfactory EPS Consultant report, the Commissioner of Health may grant provisional approval to the applicant prior to any other screening of children by the applicant. Provisional approval by MDH shall constitute approval for purposes of other governmental agencies and their provision of third party reimbursement.

b. In the event the MDH staff intends to recommend to the Commissioner of Health a denial of provisional approval, the staff shall notify the applicant in writing of the conditions necessary to gain approval.

PROPOSED RULES

Technical assistance and consultation shall be offered by MDH to the applicant.

c. If following the offer of consultation and with reconsideration, MDH staff intends to recommend to the Commissioner of Health denial of provisional approval the staff shall notify the applicant at least 33 days prior to the submission of the recommendation to the Commissioner of Health. If the applicant contests the proposed staff recommendation to deny provisional approval it shall request in writing a hearing within 30 days of receipt of the proposed staff recommendation or otherwise it shall be deemed to concur with the staff recommendation. This hearing shall be conducted in accordance with the Minnesota Administrative Procedures Act and the Rules of the Office of Hearing Examiners.

3. With regard to the final stage of approval:

a. A second visit shall be made by the EPS Consultant within the first six months of the program's operation to evaluate the screening program and staff performance to assure implementation and fulfillment of the program components as specified in Rule 7 MCAR § 1.175 A., B., C.

b. The MDH staff shall make a final staff review of the screening program. This review consists of the EPS Consultant's evaluation of the ability of program personnel to adequately perform the screening procedures as outlined in the Rule, the MDH District Nursing Consultant's evaluation of the overall program administration and a review of the application in accordance with standards as specified in Rule 7 MCAR § 1.175 A., B., C.

c. If the Commissioner of Health concurs with staff comments and recommendation, the Commissioner shall notify the applicant within 30 days of final approval. Such approval by MDH shall constitute approval for purposes of other governmental agencies and their provision of third-party reimbursement.

d. If not in substantial compliance:

(1) The conditions necessary to gain approval shall be stated in writing by MDH staff to the applicant. Technical assistance and consultation shall be offered by MDH staff to the applicant.

(2) If following the offer of consultation and reconsideration, MDH staff intends to recommend to the

Commissioner of Health a denial of final approval, the staff shall notify the applicant in writing of the reasons therefore, at least 33 days prior to the submission of the recommendation to the Commissioner of Health. If the applicant contests the proposed staff recommendation to deny approval, it shall request in writing a hearing, within 30 days of the receipt of the proposed staff recommendation or otherwise, it shall be deemed to concur with the staff recommendation. This hearing shall be conducted in accordance with the Minnesota Administrative Procedures Act and the Rules of the Office of Hearing Examiners.

E. Annual Reapproval

1. An approved program shall be reviewed annually by the MDH staff to determine if approval status shall continue. Reapproval shall be based on the program's continued compliance with the standards specified in Rule 7 MCAR § 1.175 A., B., C.

2. The Commissioner of Health shall notify the program within 30 days after receipt of the staff recommendation of reapproval.

3. In the event that MDH staff intends to recommend to the Commissioner of Health a denial of reapproval, the staff shall notify the program in writing of the conditions necessary to gain reapproval. Technical assistance and consultation shall be offered by MDH to the program. If following the offer of consultation and with reconsideration, MDH staff intends to recommend to the Commissioner of Health, denial of reapproval, the staff shall notify the program at least 33 days prior to the submission of the recommendation to the Commissioner of Health. If the program contests the proposed staff recommendation to deny reapproval it shall request in writing a hearing within 30 days of receipt of the proposed staff recommendation or otherwise it shall be deemed to concur with the staff recommendation. This hearing shall be conducted in accordance with the Minnesota Administrative Procedures Act and the Rules of the Office of Hearing Examiners.

7 MCAR § 1.177 MDH responsibilities in relation to applicants and approved programs.

A. The MDH shall provide technical assistance and consultation for the planning, implementing and administering of EPS programs and those programs seeking approval.

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PROPOSED RULES

B. The MDH shall survey and evaluate approved programs on a periodic basis to assure compliance with the standards contained in these rules.

C. The MDH shall provide in-service EPS training seminars for local staff based upon the needs as determined jointly by approved programs and MDH staff. This training shall address at least the following areas:

1. Administration of EPS

2. Pediatric nursing skills in relation to the specific screening assessments and tests of children.

7 MCAR § 1.178 Approved program responsibilities.

A. Approved programs shall provide EPS service in accordance with or exceeding the standards contained in these rules.

B. The criteria for referral resulting from the screening tests and assessments are outlined in the 1977 EPS Procedures Manual.³ Approved programs shall refer children to an appropriate resource for evaluation, diagnosis and treatment.

C. Approved programs shall assure that EPS personnel obtain continuing education in order to maintain or improve clinical skills. This training may be provided by MDH or the University of Minnesota, School of Public Health. The content shall relate to child ambulatory health care, screening principles and clinical skills.

D. Approved programs shall coordinate the EPS program with schools or other community child health programs and health care providers.

E. Approved programs shall participate in evaluation of their programs and submit evaluation data as requested by MDH. This data includes at least a screening and referral form and forms for tracking diagnosis and treatment results. Data provided to MDH by approved programs may be summarized and the child's identity shall remain anonymous.

F. Approved Program Option

Approved programs may include the Physician Integration Plan, provided such a plan meets or exceeds the standards contained in these rules. If this plan is included, the health history, physical examination and the laboratory tests shall be performed on the child, under a physician's supervision. This examination shall be performed within the previous 6 months if the child is

under the age of 2, within 12 months if the child is 2 years or older, or 60 days after the provision of the other EPS screening tests (vision, hearing, and developmental). There shall be a mutual exchange of information to assure that each provider has the complete health and developmental profile of the child.

Minnesota Tax Court Proposed Rules and Amendments to Rules of the Minnesota Tax Court

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Tax Court's Hearing Room, 5th floor, Space Center, 444 Lafayette Road, St. Paul, Minnesota, 55101, on February 6, 1978, at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

Copies of the proposed rules are now available and one free copy may be obtained by writing to the Minnesota Tax Court. Additional copies will be available at the door on the date of the hearing.

Please be advised that pursuant to Minn. Stat. § 10A.01, Subd. 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Rules as Proposed

13 MCAR § 2.001 Rules of civil procedure [and uniform rules of evidence] adopted by reference. The rules of civil procedure of the Minnesota District Courts and the Uniform Rules of Evidence for Minnesota State Courts are hereby adopted as the rules of this Court except as hereinafter modified or amended.

13 MCAR § 2.002 Appearance and practice before the court. Any person may appear and act for himself or for a partnership of which he is a member or for a corporation of which he is an officer.

Others who may practice before the Court as hereinafter provided shall be:

³ The EPS Procedures Manual is available to the public and may be obtained from the Minnesota Department of Health.

PROPOSED RULES

A. Attorneys at law duly licensed to practice law in the State of Minnesota.

B. Certified Public Accountants duly qualified under the Laws of Minnesota, provided, however, that practice by Certified Public Accountants shall be limited to the following:

1. Presentation of matters in which the facts are submitted by stipulation and in which the taking of evidence before the court is not required.

2. Arguments on questions of fact and problems of accountancy in all hearings before the Court.

The Court may for cause deny or suspend the right of any person to practice before it.

13 MCAR § 2.003 Pre-trial conferences and continuances. Pursuant to Rule 16 of the Minnesota Rules of Civil Procedure, from time to time one or more Judges of the Tax Court shall hold pre-trial conferences for the purpose of defining issues, issuing appropriate pre-trial orders, and setting trial dates of pending cases. The Tax Court shall give reasonable written notice of a pre-trial conference to all parties interested in any case which has been appealed.

A. On or before the date of such pre-trial conference each party shall file with the Tax Court an original and [three copies] **one copy, and shall also furnish one copy to the opposing party**, of a pre-trial statement [and shall serve a copy of the same on the opposing party] setting forth the following:

1. The names and addresses of all witnesses known to the party who may be called to testify at the hearing.

2. A concise statement of the party's version of the facts of the case.

3. A list of all exhibits that may be offered at the hearing.

4. A concise statement of State and Federal laws and regulations which the party claims to be applicable to the case.

5. An estimate of the time required to hear the case.

6. A list of dates for which the party claims to be unavailable for hearing, **and the reasons therefor**.

7. Any motions the party intends to make relative to jurisdiction, continuance, limitation of proof or other matters relating to the conduct of the hearing.

8. A statement to the effect that serious settlement negotiations have been conducted.

It shall be mandatory for both parties or their counsel to appear at the pre-trial conference unless excused by the Court.

A failure to so appear, unless excused, shall be grounds for dismissal of the appeal or summary judgment.

B. The court reserves the right to make continuances or postponements on its own motion.

13 MCAR § 2.004 Hearings. One or more members of the Court designated by the [Chairman] **Chief Judge**, or in his absence by the [Vice-Chairman] **Judge-Administrator**, may hold hearings and take testimony at any place within the State and such testimony so taken shall be reported for action by the Court.

Hearings before the Court shall be open to the public. All findings and decisions of the Court, after they have been filed with the clerk of the Court, shall be a matter of public record.

13 MCAR § 2.005 Title of cause.

[a. Each notice of appeal and all other papers filed with the Court shall contain a caption in the following form:

STATE OF MINNESOTA
TAX COURT

_____,
Appellant,

-vs-

The Commissioner of Taxation

Appellee.

In the Matter of the Appeal
from the Commissioner's
Order dated _____
relating to _____
tax of _____
(Name of Taxpayer)
for the _____ year ending
_____.

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PROPOSED RULES

b. In all cases the Appellee shall be "The Commissioner of Taxation", who shall be designated by his official title without naming the individual holding the office, and if a change occurs in the individual holding the office while an appeal is pending, the appeals shall not abate and no substitution of parties shall be necessary.

c. The Appellant shall be the Taxpayer or the person or agency authorized by Minnesota Statutes, Chapter

271, to appeal from the order of the Commissioner.]

A. APPEALS FROM ORDERS OF THE COMMISSIONER OF REVENUE.

1. Each notice of appeal and all other papers, in the matter of appeals from Orders of the Commissioner of Revenue, filed with the Court shall contain a caption in the following form:

STATE OF MINNESOTA

TAX COURT

_____,
Appellant,

-vs-

The Commissioner of Revenue,
Appellee.

In the Matter of the Appeal from
the Commissioner's Order dated _____ relating to
_____ tax of _____ for the
(Name of Taxpayer)
_____ year ending _____.

2. In all such cases the Appellee shall be The Commissioner of Revenue, who shall be designated by his official title without naming the individual holding the office, and if a change occurs in the individual holding the office while an appeal is pending, the appeals shall not abate and no substitution of parties shall be necessary.

3. The Appellant shall be the Taxpayer or the person or agency authorized by Minn. Stat., Ch. 271, to appeal from the orders of the Commissioner.)

4. If the Appellant(s) elect(s) to file the appeal in the small claims division, it shall contain the following statement:

THE APPELLANT(S) IS (ARE) AWARE OF THE FACT THAT NO APPEAL MAY BE HAD FROM A SMALL CLAIMS DECISION AND AGREE(S) THAT THE DECISION OF THE TAX COURT SHALL BE CONCLUSIVE.

B. APPEALS FROM ORDERS OF THE COMMISSIONER OF REVENUE FILED IN THE COUNTY OF RESIDENCE OF THE TAXPAYER.

1. Each notice of appeal and all other papers, in appeals from orders of the Commissioner of Revenue filed in the county of residence of the taxpayer, shall contain a caption in the following form:

STATE OF MINNESOTA

TAX COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

APPELLANT

-VS-

The Commissioner of Revenue,

APPELLEE.

In the Matter of the Appeal from the
Commissioner's Order dated _____ relating to
_____ tax of _____ for the
(Name of Taxpayer)
_____ year ending _____.

2. In all such cases the Appellee shall be the Commissioner of Revenue, who shall be designated by his official title without naming the individual holding the office, and if a change occurs in the individual holding the office while an appeal is pending, the appeals shall

not abate and no substitution of parties shall be necessary.

3. The Appellant shall be the taxpayer or the per-

PROPOSED RULES

son or agency authorized by Minnesota Statutes, Chapter 271, to appeal from the order of the Commissioner.

4. If the Appellant(s) elect(s) to file the appeal in the small claims division, it shall contain the following statement:

THE APPELLANT(S) IS (ARE) AWARE OF THE FACT THAT NO APPEAL MAY BE HAD FROM A SMALL CLAIMS DECISION AND AGREE(S)

STATE OF MINNESOTA

TAX COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

(Name of petitioner(s))

Petitioner(s).

vs.

COUNTY OF _____

Respondent.

2. If the petition is a small claims petition it shall be in substantially the following form:

PETITION

Your Petitioner(s) represent(s) and show(s) to the Court:

1. That Petitioner(s) has (have) an interest as a fee owner(s) (contract purchaser(s)) (leasee(s)) of that tract of land situated in the County of _____ and State of Minnesota, described as follows, to-wit:

(here insert official description of tract)

2. That Petitioner(s) claim(s) that the above-described property has been unfairly and unequally assessed.

3. THE PETITIONER(S) IS (ARE) AWARE OF THE FACT THAT NO APPEAL MAY BE HAD FROM A SMALL CLAIMS JUDGMENT AND AGREE(S) THAT THE DECISION OF THE TAX COURT SHALL BE CONCLUSIVE.

WHEREFORE, your Petitioner(s) pray(s) this Honorable Court for a determination of Petitioners' claim reducing said assessment.

Petitioner

Petitioner

THAT THE DECISION OF THE TAX COURT SHALL BE CONCLUSIVE.

C. PETITIONS FOR REDUCTION OF ASSESSED VALUATION PURSUANT TO MINNESOTA STATUTES CHAPTER 278.

1. Each petition and all other papers in matters arising under Minnesota Statutes Chapter 278, on appeals directly to the Tax Court, shall contain a caption in the following form:

3. If the petition is not a small claims petition it shall be in substantially the following form:

PETITION

Your Petitioner(s) represent(s) and show(s) to the Court:

1. That the Petitioner(s) has (have) an interest as a fee owner(s) (contract purchaser(s)) (leasee(s)) of that tract of land situated in the County of _____ and State of Minnesota, described as follows, to-wit:

(here insert official description of tract)

2. That the Petitioner(s) claim(s) that the above-described property has been unfairly and unequally assessed.

WHEREFORE, your Petitioner(s) pray(s) this Honorable Court for a determination of Petitioner's claim reducing said assessment.

Petitioner

Petitioner

13 MCAR § 2.006 Filing of papers. All papers filed with the Court (including the notice of appeal the petition, the return and answer, all motions, affidavits, briefs, etc.) shall be

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PROPOSED RULES

filed in [quadruplicate] **duplicate** (original and [three copies] **one copy**) and a copy shall be furnished to [each] **the opposing party or if the party has retained counsel then to the opposing counsel.**

13 MCAR § 2.007 Notice of appeal or petition. A notice of appeal shall be signed by the Appellant personally or by an attorney at law duly licensed to practice law in the State of Minnesota.

13 MCAR § 2.008 Proof of service. Proof of service shall be evidenced by an affidavit of service attached to, or by admission of service endorsed on the original of the instrument served.

13 MCAR § 2.009 Agreed statements of facts. The parties may by stipulation in writing, filed with the Court, or presented at the hearing, agree upon any or all questions of fact involved in the appeal. An original and [three copies] **one copy** of such stipulation shall be furnished to the Court.

13 MCAR § 2.010 Documentary evidence.

A. When books, documents, records or other papers have been received in evidence; a copy thereof, or of so much thereof as may be material or relevant, may, in the discretion of the Court, be substituted thereof.

B. Originals of books, documents, records, diagrams or other exhibits introduced in evidence before the Court may be withdrawn from the custody of the Court in such manner and upon such terms as the Court in its discretion may prescribe. Exhibits shall not be open to the inspection of the public.

C. Evidence as to the contents of books, documents, records and other papers may, in the discretion of the Court, be given by oral testimony.

D. Wherever possible an original and [three copies] **one copy** of all exhibits shall be furnished to the Court, as well as a copy for opposing counsel.

13 MCAR § 2.011 Briefs.

A. Briefs shall be filed with the Court [ten] **five** days [before] **in advance** of the hearing or at such other time as the Court may determine in its pre-trial order. Each party shall submit a proposed findings of fact and conclusions of law with the brief. An original and [three copies] **one copy** of the same shall be furnished to the Court as well as a copy for the opposing counsel.

B. Upon request made by any party at the time of hearing, the Court may, in its discretion, grant said party additional time within which to file a supplemental brief. If such leave is granted, the Court shall designate a period of time within which said party shall serve and file said brief and the time in which the other party shall serve and file a reply

brief. In the event leave to file such a brief is granted, the matter shall be deemed to have been submitted to the Court [on the date set for the filing of the last brief or upon the actual filing thereof.] **at such time as the Court shall determine.**

C. Any taxpayer interested in or affected by any matter pending before the Court may petition the Court for leave to file a brief amicus curiae and the Court in its discretion may grant or deny such petition.

13 MCAR § 2.012 Submission without hearing.

If all parties to an appeal shall by written stipulation waive their right to a public hearing, the parties may submit such matter to the Court on written stipulation of facts and briefs, but after such submission the Court may, in its discretion, require appearance for the taking of further testimony or for oral argument. In the event such appearance is required, ten days notice shall be given by mail to all parties to the proceeding.

13 MCAR § 2.013. Parties in intervention.

A. In the event of an appeal to the court taken by a person or agency other than the Taxpayer against whom the tax involved has been assessed, or against whose property the tax involved has been assessed, such Taxpayer shall be deemed a party to the proceedings before the Court and need not formally intervene in said action. In all other cases, any person or agency claiming a right to appear in or become a party to any matter pending before the Court, shall by petition to the Court ask leave to intervene in said matter.

B. When an appeal is taken to the Court by a person or agency other than the Taxpayer against whom the tax involved has been assessed, the clerk of the Court shall by registered mail, send a copy of the notice of appeal to each of such Taxpayers whose identity and address can reasonably be determined from the said notice of appeal; provided, that the mailing of such copy of said notice of appeal to such Taxpayer shall not be deemed to affect, or as intending to affect, any right or rights which said Taxpayer or any other parties to said action may have under existing laws.

13 MCAR § 2.014 Practice and procedure. Unless otherwise herein provided, the practice and procedure before the Court shall be substantially such as obtains in the District Courts of this State. The Court, however, reserves the right to vary such practice and procedure by the incidental suspension of the more rigid forms of pleadings, practice and evidence, when in its opinion the best interests of the parties involved may be thereby served or the determination of the cause expedited.

13 MCAR § 2.015 Extension of time to appeal. Parties requesting an extension of time to appeal under Minn. Stat., ch. 271, shall submit a verified petition showing cause for such extension, and shall state there in the date of

PROPOSED RULES

the mailing of the order of the Commissioner, or the date on which the order of the County Board of Equalization was filed, and shall attach to said petition a proposed order

providing for the extension which order shall be [substantially in the following form] entitled as provided in **RULE V. of these Rules and shall read substantially as follows:**

STATE OF MINNESOTA TAX COURT

Appellant,

-vs-

The Commissioner of [Taxation] Revenue,

Appellee.

In the Matter of the Appeal
from the Commissioner's
Order dated _____
relating to _____
tax of _____

(Name of Taxpayer)

for the _____ year
ending _____.

ORDER EXTENDING TIME WITHIN WHICH TO APPEAL

The Appellant in the above entitled matter having requested an extension of time within which to appeal and having shown cause for same,

IT IS ORDERED that the time within which to appeal the above entitled matter be and the same hereby is extended to and including the _____ day of _____, 19____.

Dated at St. Paul, Minnesota, this _____ day of _____, 19____.

MINNESOTA TAX COURT

By _____
Judge-Clerk

Such requests for extension of time to appeal must be made before the expiration of the original time to appeal provided for under Minn. Stat. ch. 271, and must be mailed to the main office of the Tax Court at St. Paul, Minnesota.

In the cases where the Commissioner gives notice of the making and filing of the order of the Commissioner and the request for an extension of time is received within [thirty] sixty days of the making and filing of the order, the Court may, for cause shown extend the time to appeal for an additional thirty days; [in such case] if the request for extension is made more than [thirty] sixty days after the making and filing of the order, the Court may, for cause shown, extend the time for appeal to a date not more than [sixty] ninety days from the date of the making and filing of the order of the Commissioner.

In cases where the Commissioner did not give notice of the making and filing of the order of the Commissioner, and

the request for an extension of time is received within [sixty] ninety days of the making and filing of the order, the Court may, for cause shown, extend the time to appeal for an additional thirty days; in such cases, if the request for an extension is made more than [sixty] ninety days after the filing of the order, the Court may, for cause shown, extend the time for appeal to a date not more than [ninety] one hundred and twenty days from the making and filing of the order of the Commissioner.

13 MCAR § 2.016 Additional hearings. If, after the holding of any hearings in any matter, the Court shall deem that the rights of the parties will be better served by the holding of a further hearing or hearings in said matter, the Court may order such further hearing or hearings, and ten days notice of such further hearing or hearings shall be given by mail to all parties to the proceeding.

13 MCAR § 2.017 Reservations. The court reserves the right to amend, relax and dispense with these rules and regulations from time to time as circumstances may require, or render necessary or expedient.

KEY: Existing rules are printed in standard type face. Proposed additions to existing rules are printed in **boldface**, while proposed deletions from existing rules are printed within [single brackets]. Additions to proposed rules are underlined and boldfaced, while deletions from proposed rules are printed within [[double brackets]].

PROPOSED RULES

Minnesota Zoological Garden

Proposed Rules Governing General Zoo Operations

Notice of Hearing

Notice is hereby given that a public hearing in the above entitled matter will be held in Room B-9 of the Transportation Building, John Ireland Boulevard, St. Paul, Minnesota 55155 on February 3, 1978 commencing at 9:00 A.M. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Steve Mihalchick, State Hearing Examiner's Office, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104 either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, would govern the efficient protection of the Minnesota Zoological Garden and related facilities and the conduct of persons entering therein. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Minnesota Zoological Garden, 12101 Johnny Cake Ridge Road, Apple Valley, Minnesota 55124. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 85A.02, subd. 7. A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiner's Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that pursuant to Minn. Stat. § 10A.01, subd. 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five (5) days of the commencement of such activity by the individual.

Minnesota Zoological Garden
Donald D. Bridgwater
General Director

Rules as Proposed

Chapter One: General

Zoo 101 Purpose and authority. These regulations

are promulgated pursuant to authority granted the Minnesota Zoological Board by Minn. Stat. § 85A.02, subd. 7 (1976) and are intended to govern the efficient protection of the Minnesota Zoological Garden and related facilities and the conduct of persons entering therein. A violation of any regulation herein set forth is a misdemeanor.

Zoo 102 Definitions.

A. "Director" means the chief executive officer of the Minnesota Zoological Garden.

B. "Admission area" means any area comprising the Minnesota Zoological Garden except the roadway entrance to the parking areas and the parking areas.

C. "Parking areas" means those parts of the Minnesota Zoological Garden premises which are designated for public parking.

D. "Zoo premises" means the entire real estate, personal property and air space owned or controlled by the Minnesota Zoological Garden.

E. "Zoo Visitor" means any person or legal entity of any kind entering or occupying any part of the zoo premises.

F. "Vehicle" means any motorized, self-propelled, animal-drawn or human-powered conveyance, including motorized recreation vehicles, and any trailer used in connection with any vehicle.

G. "Motorized recreation vehicle" means any self-propelled, off-the-road, or all terrain conveyance, including but not limited to a snowmobile, mini-bike, amphibious vehicle, motorcycle, go-cart, trail bike, or dune buggy.

H. "Weapon" means any instrument the possession of which is unlawful under Minnesota law and any device from which shot or projectile of any type can be discharged by means of an explosive, gas, or compressed air, or otherwise propelled, including but not limited to firearms, bows and arrows, slings, and spring guns.

I. "Wildlife" means all living creatures, not human, who are by nature endowed with sensation and power of voluntary motion.

J. "Intoxicating liquor" means any liquor which is intoxicating pursuant to Minnesota law and includes ethyl alcohol, distilled, fermented, spiritous, vinous, and malt beverages containing in excess of 3.2% of alcohol by weight.

PROPOSED RULES

K. "Beer means any alcoholic malt beverage containing not more than 3.2% alcohol by weight.

L. "Controlled substances" means any drug, the use, possession, or sale of which is a violation of federal or Minnesota laws.

Zoo 103 Applicability. These regulations shall apply to all persons on the zoo premises or causing any effect upon or within the zoo premises.

Zoo 104 Penalties. A person guilty of violating any provision of these regulations shall be punished by a fine of not more than \$300 together with taxable costs, or by imprisonment for a period not to exceed 90 days, or both.

Zoo 105 Enforcement. These regulations may, and in accordance with Minnesota Statutes, be enforced by any person, peace officer, or law enforcement agency designated, appointed or ratified by the Director to act in a law enforcement capacity on the zoo premises.

Chapter Two: Admission

Zoo 201 Tickets or passes required. It is unlawful for any person or vehicle to be present upon zoo premises without a valid ticket or pass.

Zoo 202 Entry to zoo premises. It shall be unlawful for any person or vehicle to enter the zoo premises except at designated entrances.

Zoo 203 Hours. The hours during which zoo visitors may be on zoo premises shall be designated by the Director. It shall be unlawful for any person or vehicle to enter or be on zoo premises except during such hours.

Zoo 204 Whole or partial closure of zoo premises. The zoo premises or any portion thereof may be declared closed to the public by the Director at any time and for any interval of time as the Director shall find reasonably necessary and the presence of any person or vehicle in such area is prohibited.

Zoo 205 Restricted areas. It shall be unlawful for any person or vehicle to pass into any posted restricted area, except that entry into restricted areas shall be permitted in such areas as the Director may specifically designate when such admittance is under the auspices and control of an authorized special tour guided by zoo personnel.

Zoo 206 Aircraft. It is unlawful for any person to land an aircraft on the zoo premises or to operate an aircraft above or near the zoo premises in any manner which might tend to, or might disturb the wildlife in the Minnesota Zoological Garden.

Chapter Three: Protection of Wildlife and Natural Resources

Zoo 301 Protection of wildlife and natural resources. It is unlawful for any person to injure, destroy, or remove any wildlife, vegetation, rock, soil, or mineral on the zoo premises or to kill, trap, hunt, pursue or in any manner disturb, alter, or cause to be disturbed or altered any species of wildlife within or on the zoo premises.

Zoo 302 Shooting. It is unlawful for any person to shoot any weapon on the zoo premises or into or above the zoo premises from beyond zoo boundaries.

Zoo 303 Pets. It is unlawful for any person to bring any dog, cat, or other domesticated animal or pet onto zoo premises except on a leash and then only into the parking areas.

Zoo 304 Foreign wildlife or agents. It is unlawful for any person to bring, possess, introduce or release on the zoo premises any chemical or other agent potentially harmful to the vegetation or wildlife of the zoo.

Zoo 305 Feeding wildlife. It is unlawful to feed any species of wildlife on the zoo premises except as specifically authorized in designated areas.

Zoo 306 Physical or verbal contact prohibited. It is unlawful for any person to attempt to make physical contact with any wildlife on the zoo premises except for authorized contact in the Children's Zoo. It is unlawful for any person to attempt to make or to make any other contact including verbal with any wildlife on the zoo premises in a manner likely or tending to disturb or disturbing any wildlife.

Zoo 307 Horses. Horses are prohibited on the zoo premises.

Chapter Four: Traffic

Zoo 401 Roadways. No vehicle shall be operated on or occupy any part of the zoo premises except parking areas and roadways.

KEY: Existing rules are printed in standard type face. Proposed additions to existing rules are printed in **boldface**, while proposed deletions from existing rules are printed within [single brackets]. Additions to proposed rules are underlined and boldfaced, while deletions from proposed rules are printed within [[double brackets]].

PROPOSED RULES

Zoo 402 Motorized recreation vehicles. No motorized recreation vehicles shall be allowed on zoo premises except road licensed vehicles.

Zoo 403 Right-of-way. Pedestrians and wildlife have the right-of-way on zoo premises at all times and places. Drivers of all vehicles must yield right-of-way.

Zoo 404 Incorporation of state statutes. Minn. Stat., ch. 169, 170, and 171, and all other applicable Minnesota Statutes relating to traffic, parking, and the operation of vehicles, as amended from time to time, and hereby incorporated into and made a part of this rule, and the same shall be in full force and effect as to all parts of the zoo premises and as to the operation of vehicles therein and thereon, and shall have the same force and effect as though the said provisions were fully set out herein and it shall be unlawful for any person to violate the same.

Zoo 405 Speed limit. No person shall drive a vehicle on zoo premises at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so restricted as may be necessary to avoid colliding with any person, vehicle or wildlife. The maximum speed limit is 15 miles per hour or 24 kilometers per hour.

Zoo 406 Lawful orders and posted regulations. It shall be unlawful for any person to operate a vehicle on zoo premises in violation of posted regulations, orders or directions of traffic officers or zoo employees authorized to direct traffic.

Zoo 407 Parking and standing. It is unlawful to park or leave a vehicle standing on zoo premises except within a designated parking area.

Zoo 408 Overnight parking. Overnight parking of any vehicle is prohibited and all vehicles present on the zoo premises at closing time are subject to removal at the expense of the owner.

Zoo 409 Obstruction of traffic. It is unlawful to obstruct vehicle traffic.

Chapter Five: Food, Beverages, and Controlled Substances

Zoo 501 Locations. It is unlawful to consume food or beverages on the zoo premises except at locations authorized by the Director.

Zoo 502 Cookouts and fires. Cookouts and barbecues and other open fires of any kind are prohibited.

Zoo 503 Tailgating and picnicking. Tailgating and picnicking shall be permitted in designated areas only.

Zoo 504 Intoxicating liquors and controlled substances. It is unlawful to use, possess or sell any intoxicating liquor, controlled substances, or beer on the premises or to be under the influence of any intoxicating liquor, controlled substance, or beer except as provided at Minn. Reg. Zoo 505.

Zoo 505 Intoxicating liquors and beer at special events. The use of intoxicating liquors and beer shall be allowed within the main zoo building at such special zoo events and subject to such conditions as the Board shall designate.

Chapter Six: Speech and Conduct

Zoo 601 Incorporation of misdemeanor statutes. The misdemeanor statutes of the State of Minnesota relating to the conduct of persons and the protection of life and property are hereby incorporated into and made a part of these regulations and the same shall be in full force and effect as to all parts of the zoo premises and shall have the same force and effect as though said statutes were fully set forth herein, and it shall be unlawful for any person to violate the same. No aspect of or omission in these regulations shall operate to deprive the criminal laws of the State of Minnesota from having full force and effect on the zoo premises.

Zoo 602 Fires. Fires are prohibited on zoo premises.

Zoo 603 Weapons. Possession or any concealed or unconcealed weapon on zoo premises is prohibited.

Zoo 604 Wading and swimming. Wading and swimming are prohibited on zoo premises.

Zoo 605 Smoking. Smoking is prohibited in the admission area except in designated areas.

Zoo 606 Boating and fishing. Boating and fishing are prohibited.

Zoo 607 Disturbance. It shall be unlawful for any person to use threatening, abusive, insulting, obscene or indecent language or to act in an indecent or lascivious manner or to disturb, harass, or interfere with any zoo visitor or zoo visitor's property or to do any other act which constitutes a breach of the public peace on the zoo premises.

Zoo 608 Sound trucks. Operation of sound trucks or mobile vehicles equipped with public address systems, or vehicles upon which any advertising signs, political or otherwise, have been affixed in any manner, whether

PROPOSED RULES

such vehicles are in motion or parked on the zoo premises, is prohibited.

Zoo 609 Radio and broadcasting devices. No radio or other broadcasting device is permitted in the admission area.

Zoo 610 Soliciting. It is unlawful to sell, solicit, or carry on any business or fund-raising on zoo premises.

Zoo 611 Meetings, speeches, demonstrations, parades, picketing, or distribution of written material. It shall be unlawful for anyone to conduct public meetings, assemblies, entertainment, parades, demonstrations, picketing or distribution of written material on the zoo premises without a written permit from the Director and then only in areas designated in the permit. All such events or activities must be conducted in such a manner as not to violate these regulations. In no case shall any such event or activity occur in the admissions area or within 100 feet of any admissions booth and the use of any amplifying or audio systems in connection with such events and activities is prohibited.

Zoo 612 Sports equipment. It shall be unlawful for any person to bring any sports equipment, including balls, frisbees, games, sleds, snowshoes, skis, or any other equipment used in sports activities into the admissions area without the advance written permission of the Director.

Zoo 613. Defacing property. No person shall deface property on the zoo premises by affixing thereto any manner of advertising material having a gummed or adhesive backing such as labels, lapel badges, car bumper or window stickers or by any other method of defacement.

Zoo 614 Littering. It is unlawful to deposit, scatter, drop or abandon on zoo premises any bottle, can, broken glass, sewage, waste or other material except in receptacles provided for such purposes or to throw, discharge or place in or upon any of the zoo premises any substances, liquid, solid or gas, or drop, throw, or otherwise leave unattended burning cigars, cigarettes, tobacco, paper or other combustible material.

Zoo 615 Impersonations. No person shall impersonate a zoo officer, ranger, or employee.

Chapter Seven: Miscellaneous

Zoo 701 Effect on zoo employees or agents. Nothing in these regulations shall prevent zoo employees or agents from performing their assigned duties or operate to modify rights of third parties contained in contracts with the Minnesota Zoological Garden.

Zoo 702 Severability. If any part or subpart of these regulations is held to be invalid, such invalidity shall not affect the validity of any other part or subpart of these regulations.

KEY: Existing rules are printed in standard type face. Proposed additions to existing rules are printed in **boldface**, while proposed deletions from existing rules are printed within [single brackets]. Additions to proposed rules are **underlined and boldfaced**, while deletions from proposed rules are printed within [[double brackets]].

OFFICIAL NOTICES

Board of Accountancy

Notice of Intent to Solicit Outside Opinion on Rules Regarding Solicitation and Advertising

Notice is hereby given that the State Board of Accountancy has begun consideration of proposed rules governing solicitation and advertising by certified public accountants in accordance with Minn. Stat. § 326.18 (1976). In order to adequately determine the nature and utility of such rules, the Board of Accountancy hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed rules.

The proposed rules, rules, if adopted, would amend Minn. Rule Accy. 150, Rule 404, on existing rule of the Board which prohibits solicitation and advertising by certified public accountants. The proposed rules would permit advertising by certified public accountants in accordance with guidelines based upon the recent decision of the United States Supreme Court in *Bates v. State Bar of Arizona*. The proposed rules would also substitute a more express definition of the forms of solicitation which may not be engaged in by certified public accountants for the general prohibition contained in the existing rule.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be in writing. Written statements of information and comment may be addressed to:

Marian Flanagan
Executive Secretary
Board of Accountancy
500 Metro Square Building
St. Paul, Minnesota 55101

All statements of information and comment must be received within twenty-one (21) days of the publication of this notice.

Leonard A. Rapoport
Chairman, Board of Accountancy
500 Metro Square Building
Saint Paul, Minnesota 55101

Banking Division Bulletin No. 1813

Maximum Lawful Rate of Interest for Mortgages for the Month of January, 1978

Notice is hereby given that the Banking Division, Department of Commerce, State of Minnesota, pursuant to

Minn. Stat. § 47.20, the Conventional Home Loan Assistance and Protection Act, as amended by Laws of 1977, ch. 350, hereby determines that the maximum lawful rate of interest for home mortgages for the month of January, 1978, is nine and one-quarter (9.25) percent.

Robert A. Mampel
Commissioner of Banks
December 13, 1977

Energy Agency

Notice of Intent to Solicit Outside Opinion Regarding the Proposed Adoption of Minnesota Energy Agency Rules Governing Contents of Applications for Certificates of Need and Criteria for Assessment of Need for Fuel Conversion Facilities, Coal Slurry Pipelines, Nuclear Fuel Processing Facilities, and Nuclear Waste Storage or Disposal Facilities

Notice is hereby given that the Minnesota Energy Agency (hereinafter the "Agency") is extending the period for accepting information or opinions from sources outside the Agency in preparing to adopt rules governing contents of applications for certificates of need and criteria for assessment of need for fuel conversion facilities, coal slurry pipelines, nuclear fuel processing facilities, and nuclear waste storage or disposal facilities.

The Agency earlier had set the close of the comment period as December 31, 1977. Comments will now be accepted through January 31, 1978. A preliminary draft of the rules is available from the Agency.

Interested or affected persons or groups may submit statements of information and comments orally or in writing. Written statements may be addressed to:

David L. Jacobson
Minnesota Energy Agency
720 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Any written material received by the Agency shall become part of the hearing record in the event that rules are proposed for adoption. Oral statements may be given, and preliminary drafts may be requested, during regular business hours over the telephone at (612) 296-7502 and in person at the above address.

OFFICIAL NOTICES

Dated: December 19, 1977

David L. Jacobson
Acting Manager
Certificate of Need Program

Ethical Practices Board

**Preliminary Agenda for Meeting on
Thursday, January 5, 1978, 1:30 p.m.,
Room 14, State Office Building**

1. Minutes (December 12, 1977)
2. Chairperson Report
 - a) Legislative Program
3. Legal Counsel Report
4. Advisory Opinion — Wyman Spano regarding Lobbyist provisions
5. Advisory Opinion — Rep. Steven Wenzel regarding accounting costs
6. Advisory Opinion — Gene Lourey regarding limits on transfers
7. Executive Director Report
 - a) Financial Statement
 - Other Business
9. Executive Session pursuant to Minn. Stat. § 10A.02, subd. 10.

Ethical Practices Board Finding of Fact

In the Matter of the Review of the Statement of Economic Interest — Joseph D. Strauss

Approved: December 12, 1977

SUMMARY

The Ethical Practices Board has concluded that Joseph D. Strauss failed to disclose sources of compensation in excess of \$50 on his Statement of Economic Interest filed April 14, 1977. Based on an affidavit filed with the Board by Mr. Strauss, he declares that he inadvertently failed to report compensation in excess of \$50 from Lou DeMars, 1919 Washburn No., Minneapolis, Minnesota, and from his private law practice received during 1976. Since Mr. Strauss voluntarily filed an amended Statement of Economic Interest dated December 1, 1977, the Ethical Practices Board finds that in its opinion, he is now in compliance with the requirements of Minn. Stat. § 10A.09, subd. 5b.

The full text of the opinion is available upon request from the office of the

State Ethical Practices Board
41 State Office Building
St. Paul, Minnesota 55155
612-296-5148

Ethical Practices Board Finding of Fact

In the Matter of the Investigation of Merle Williams

Approved: December 12, 1977

SUMMARY

The Ethical Practices Board finds no probable cause to believe that the Merle Williams Volunteer Committee failed to report and disclose campaign expenditures and contributions related to his seeking party endorsement.

In the opinion of the Board, based on an audit of the committee, the Merle Williams Volunteer Committee with the exceptions as noted and with amendment is in compliance with the reporting and disclosure requirements of the Ethics in Government Act.

The full text of the opinion is available upon request from the office of the

State Ethical Practices Board
41 State Office Building
St. Paul, Minnesota 55155
612-296-5148

Ethical Practices Board

**Advisory Opinion #40, Approved by the
Ethical Practices Board on December
12, 1977**

Issued to:

Roland C. Amundson
Sachs, Latz and Kirschbaum
548 Roanoke Building
Minneapolis, Minnesota 55402

Syllabus

40. A lobbyist must report all travel and lodging expenses except those incurred for the purpose of attending a meeting or appearing before a committee of the legislature.

You have requested an advisory opinion from the Ethical Practices Board based upon the following:

Facts

You are a registered lobbyist. You traveled to the states of Washington and Oregon to attend meetings wherein a Senate ad-hoc subcommittee gathered facts from members

OFFICIAL NOTICES

of labor and industry relating to the potential impact of mandatory deposit legislation on employment in the two states as well as the efficacy of the litter and waste control program each state operates. The material gathered by the fact finding Senate subcommittee may be considered as Senate File 1 (mandatory deposit, litter and waste control bill) is considered by the Senate. You did not testify before the committee.

Question

Are the following costs, which you incurred as a result of your attendance at briefings arranged for the subcommittee reportable lobbying expenses:

- 1) the transportation cost traveling to Seattle, Washington, from Minneapolis
- 2) the travel cost for hired cars incurred attending various briefings
- 3) the lodging expenses
- 4) the meal expenses

EC Rule 205 (a) (2) (hh) requires that all disbursements for travel and lodging of the lobbyist, paid by the lobbyist or paid by the lobbyist for any public official, *except* those incurred for the purpose of enabling the lobbyist to attend a meeting of or to appear before a committee of the legislature be reported. Since the meetings of the subcommittee were unofficial¹ and fact finding without officially recognized minutes being kept, the exclusion provided by the rules does not apply to parts 1-3 of the question. With respect to entertainment, food and beverages, EC Rule 205 (2) (ff), (gg) requires a lobbyist to report disbursements for food and beverages for any public official as well as food and beverages for the lobbyist when in the *company* of any public official,² therefore, only the entertainment, food and beverages expenses you incurred or paid when in the company of a public official is reportable.

To the extent practical, meetings of all committees shall be announced to the public at least three calendar days prior to convening. The notice shall state the name of the committee, the bill or bills to be considered, the place and time of meeting. The notice shall be posted on all Senate bulletin boards in the Capitol, and the State Office Building. A

¹ Permanent Rules of the Senate provide in part: Senate Rule 58 — Committee Meetings

58. All meetings of the Senate, its committees and subcommittees are open to the public.

² Minn. Stat. § 10A.01, subd. 8 states in part: a public official is a legislator, or a member of the Senate Research office, Senate Counsel and Secretary of the Senate.

notice shall be sent to the House of Representatives for posting as it deems necessary.

Senate Rule 65 — Duties of Secretary (In part)

The Secretary shall cause to be recorded on magnetic tape the proceedings of the Senate, the Committee of the Whole, each standing committee and standing subcommittee. Each tape shall be accompanied by a log showing the number of each bill considered and the places on the tape where consideration of the bill occurred. Within two working days after each day the Senate is in session the Secretary shall make a copy of the tape and corresponding log of proceedings of the Senate and the Committee of the Whole and deliver the copies to the Legislative Reference Library. Within two working days after each meeting of a standing committee or standing subcommittee the Secretary shall make a copy of the tape and corresponding log of the meeting and deliver the copies to the Legislative Reference Library. Upon completion and approval of the minutes of the meeting, a copy of the minutes shall be promptly delivered to the Legislative Reference Library. The Secretary shall keep a record of each session of the Senate and the Committee of the Whole, each meeting of a Senate standing committee or standing subcommittee, and the date on which a tape recording of the session or meeting was transmitted to the Legislative Reference Library.

Minnesota State Retirement System

Notice of Special Meeting

Notice is given that the Chairman of the Board of Directors, Minnesota State Retirement System, has called a special meeting of the Board to be held at 9:00 A.M. on January 13, 1977 in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

The purpose of the meeting is to discuss the annual valuation report with the System's actuary, and any other matter which may properly come before the Board.

Pollution Control Agency

Notice of Continuation of Hearing Regarding Identification, Labeling, Classification, Storage, Collection, Transportation and Disposal of Hazardous Waste

Notice is hereby given that the public hearing on the

OFFICIAL NOTICES

above-captioned rules and amendments will resume on January 16, 1978 at 9:30 A.M. in the Agency Boardroom, 1935 W. County Road B2, Roseville, Minnesota and will continue until all persons have had an opportunity to be heard.

The original notice of hearing and rules as proposed is found in Volume 2, State Register, September 19, 1977, pages 521-617. A previous notice of continuation of hearing is found in Volume 2, State Register, November 14, 1977, page 986.

The hearing officer is:

William Seltzer

Office of Hearing Examiners
Room 300
1745 University Avenue
St. Paul, Minnesota 55104
(612) 296-8105

In addition to appearing at and submitting statements at the hearing, any person may submit written comments by mail to the hearing officer within 20 days after the close of the Minnesota Pollution Control

Sandra S. Gardebring
Minnesota Pollution Control
Agency Executive Director

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

95 Sherburne, Suite 203
St. Paul, Minnesota 55103
(612) 296-8239

ORDER FORM

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Attn: Stephen Plumb
Room 111 State Capitol
St. Paul, Minnesota 55155

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